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No. 140] NEW DELHI, THURSDAY, JULY 24, 1958/SRAVANA 2, 1880

ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 2nd July 1958

S.O. 1503.—Whereas the election of Shri Shripad Amrit Dange and Shri Gopal Kaluji Manay as members of the House of the People from the Bombay City Central constituency of that House has been called in question by an election petition duly presented under Part VI of the Representation of the People Act, 1951 (43 of 1951), by Shri Sudhir Laxman Hendre, Flat No. 52, V Floor, Warden Court, Gowalia Tank Road, Bombay-26;

And whereas the Election Tribunal appointed by the Election Commission in pursuance of the provisions of section 86 of the said Act, for the trial of the said election petition, has, in pursuance of the provisions contained in section 103 of the said Act, sent a copy of its order in the said election petition to the Commission;

Now, therefore, in pursuance of the provisions of section 106 of the said Act, the Election Commission hereby publishes the said order of the Tribunal.

BEFORE SHRI K. T. MANGALMURTI, B.Sc., LL.B.,
(Retired Judge of the Bombay High Court),
MEMBER, ELECTION TRIBUNAL, NAGPUR.

ELECTION PETITION No. 437 OF 1957.

Petitioner: Shri Sudhir Laxman Hendre of Bombay.

Versus

Respondents: Shri Shripad Amrit Dange of Bombay and others.

ORDER

Passed on 31st May, 1958.

The Petitioner Shri Sudhir Laxman Hendre who was a candidate for election to the House of the People from the Bombay City Central Constituency has challenged the election of Shri Shripad Amrit Dange and Shri Gopal Kaluji Manay from that Constituency in the general election which took place on the 11th March 1957. This was a Constituency in which one of the two seats was reserved for the Scheduled Castes and Shri Manay was declared to have been elected to fill the reserved seat. The contesting candidates obtained the following votes:—

Shri S. A. Dange	..	3,23,526
Shri G. K. Manay	..	3,03,875
Shri N. S. Kujrokar	..	2,09,769
Shri G. D. Ambekar	..	1,81,241
Shri N. B. Parulekar	..	15,881
Shri S. L. Hendre	..	15,440

(2) The grounds on which he has challenged the election of Shri Dange and Shri Manay will be clear from the Issues framed which are reproduced below. My findings are given against these Issues.

ISSUE	FINDING
1. Did Shri P. K. Atre act as Agent, Canvasser and supporter of Respondents Nos. 1 and 2 (Shri Dange and Shri Manay)?	Shri Atre was an agent of Shri Dange and Shri Manay so far as public meetings were concerned but he was not their agent so far as the propaganda in the daily newspaper Maratha was concerned.
2. Were the Ballot Boxes bearing the name and symbol of the Petitioner kept late after 11-30 in the Polling Compartments of the 53 Polling Centres mentioned in the Annexure "C" to the Petition?	Not at 52 Polling stations but at one only namely Polling Station No. 9 at the Victoria Memorial School for the Blind, 73, Tardeo Road.
3. (a) Was the Petitioner not allowed inspection of the Ballot Boxes on 12-3-57 at the time of unloading of Ballot Boxes from lorries and placing them inside the Convocation Hall in spite of the Petitioner's request that he be allowed to count and check the condition of those Boxes?	Not pressed.
(b) Was he entitled to make such a request at that stage?	Not pressed.
4. Was repoll ordered at the Victoria Memorial School for the Blind, 73, Tardeo Road, in respect of the Polling Areas of Tardeo Road, Municipal Houses Nos. 3 to 71?	Yes.
5. (a) Could the Petitioner and his Polling and Election Agents not check more than 40 Polling Stations out of 770 Polling Stations in the same Constituency?	(No evidence) Not pressed.
(b) What is the effect?	(No effect) Not pressed.
6. (a) Did the Returning Officer err in ordering simultaneously elections at 770 Polling Stations?	Not pressed.
(b) What result?	Not pressed.
7. Did the Returning Officer err in starting the counting of votes on 14-3-57 though repoll was ordered in respect of Polling Station at Victoria Memorial School for Blind, 73, Tardeo Road?	No provision that this should not have been done. At any rate, it did not materially affect the result of the election in so far as it concerns the returned candidates Shri Dange and Shri Manay.
8. Did the Returning Officer err in partially declaring the results of the elections from 14-3-57 upto 21-3-57 and is finally declaring the results on 21-3-57?	No.
9. Did the Returning Officer err in ordering repoll only in respect of the Polling area of Tardeo Road M. II. Nos. 3 to 71?	No.
10. Did the Returning Officer err in:	
(a) not stopping the elections,	(a) No.
(b) not ordering fresh elections and	(b) No.
(c) not ordering fresh election in 52 Polling Stations?	(c) (No) Not pressed.
11. Did the Returning Officer err in dismantling the Polling Stations indicated in the Petitioner's correspondence with the Returning Officer as well as the Election Commission?	Not pressed.

ISSUES

FINDING

12. (a) Did the Respondents Nos. 1 and 2 and Shri Atre acting on behalf of Respondents Nos. 1 and 2 indulge in a deliberately misleading propaganda through written and spoken statements appealing to the voters to refrain from voting for the Petitioner on the ground that the Petitioner was a bogus candidate and (i) did not believe in the cause of Samyukta Maharashtra and/or (ii) was put up as a candidate by Shri Y. B. Chavan, Chief Minister of Bombay State and Shri S. K. Patil, President of the Bombay Provincial Congress Committee knowing the same to be false and having no reason to believe it to be true?

No case established of corrupt practice under sub-section (4) of Section 123.

(b) Did this propaganda prejudice the chance of the Petitioner's election?

(c) Did this create doubt about the genuineness of the Petitioner's candidature?

(d) Did this create any doubt about the personal character and conduct of the Petitioner?

No.

(e) Did this amount to corrupt practice within the meaning of Section 123 (4)?

No.

13. Did the Respondents Nos. 1 and 2 and the persons named in Annexure 'D' to the petition carry on a systematic propaganda at the meetings given in Ex. A. and by going from house to house appealing to the Brahmin voters in the Petitioner's constituency to vote for Respondent No. 1 only because the petitioner did not belong to the Brahmin community but belonged to the Non-Brahmin community.

Not pressed.

14. (a) Prior to or at the said election, did the Respondent No. 1 and Respondent No. 8 acting on behalf of Respondent No. 1 and/or his Agent indulge in corrupt practice of bribery with the object of directly or indirectly inducing Mr. E. M. Avati to retire from contest at the said election?

No corrupt practice of bribery established.

(b) Was Shri Avati paid Rs. 1,800/- by Shri Vinayak Bh.ve on behalf of Respondent No. 1 and Shri P. K. Atre, Editor, Printer and Publisher of Maratha who acted as Agent canvasser and supporter of Respondents No. 1 and 2 to withdraw his candidature, and not as election expenses?

Shri Avati was not paid anything.

If so, what effect?

Does not arise.

(c) Was the withdrawal of Shri Avati given publicity in Maratha, edited by Shri P. K. Atre, Editor and Printer of Maratha on the instructions of Respondent No. 1?

No.

If so, what effect?

Does not arise.

(d) Was "special photograph" of Shri Avati published in Maratha on 12-3-1957?

Yes.

If so, what effect?

No effect.

15. Did the propaganda in Maratha amount to undue influence within the meaning of Sub-section (2) of Section 123 of the Representation of the People Act?

No.

16. Did the Respondents 1 and 2 and Shri P. K. Atre and/or their election agents, canvassers, employees and supporters, with their knowledge and/or consent and/or connivance and/or encouragement indulge in (1) intimidation (2) wholesale terrorization (3) threats of physical violence (4) social ostracism (5) spiritual censure and (6) divine displeasure against the persons mentioned in Annexure 'B' to the petition, and on a large scale and through out the Constituency?

No.

17. Did the persons mentioned in Annexure E-1 carry on propaganda within the prohibited distance of the Polling booths in furtherance of the prospects of the Respondents 1 and 2?

(Not proved) Not pressed.

ISSUES

FINDING

18. (a) Three days prior to the elections and at the said elections did Respondents 1 and 2 and the persons mentioned in the Annexure E-2 to the petition carry on false propaganda throughout the Constituency that the Petitioner had either withdrawn or retired in favour of Respondent No. 1, and, therefore, the voters in the Petitioner's Constituency should not vote for the Petitioner as it would amount to wasting their votes?

(No evidence) Not pressed.

(b) Was this propaganda also made in the public meetings held on Choupaty and Shivaji Park on 9-3-1957?

19. At the said elections, did the Respondents Nos. 1 and 2 and the persons mentioned in the Annexure E-3 to the petition with the knowledge and/or consent and/or connivance of Respondents Nos. 1 and 2 mislead the voters interested in the Petitioner on their way to the Polling Stations by informing the said voters that the Petitioner had withdrawn and/or retired from the contest at the said election and, therefore, they should not waste their votes by voting for the Petitioner?

(No evidence) Not pressed.

20. Did the polling Agents of the Respondents Nos. 1 and 2 obtain or attempted to obtain assistance of the Presiding Officers and Polling Officers for the furtherance of the prospects of the election of the Respondents Nos. 1 and 2 by inducing or attempting to induce the Presiding Officers and/or Polling Officers not to keep the ballot boxes of the Petitioner in the Polling compartments by falsely informing them that the Petitioner had already withdrawn and/or retired from the said contest at the said election and by defacing the name of the Petitioner on the Notice Board hung at the entrance of the Polling Compartments in 53 Polling Stations in the said Constituency given in Annexure C to the petition?

No.

21. Did the Respondents Nos. 1 and 2 and the persons mentioned in Annexure E to the petition make it impossible for the Petitioner's workers to approach voters or for the persons mentioned in Annexure G to the petition to distribute hand bills or to make any propaganda?

No.

22. Did the Respondents Nos. 1 and 2 and/or their election agents, canvassers, employees and supporters, with their knowledge and/or consent and/or connivance, threaten the canvassers supporters, employees and the voters interested in the Petitioner with physical injury if they should distribute the Petitioner's handbills, voting cards or otherwise solicit the vote of the voters in the Petitioner's Constituency?

No.

23. Did the Respondents Nos. 1 and 2 take reasonable means for preventing the commission of corrupt practices at the election?

Does not arise.

24. (a) Were the corrupt practices indulged in by the Respondents Nos. 1 and 2 and/or by their election agents, polling agents, canvassers, supporters, employees not of a trivial nature?

Does not arise.

(b) Did they materially affect the result of the election in favour of Respondents Nos. 1 and 2 and against the Petitioner?

No.

25. Was the election of Respondents Nos. 1 and 2 void?

No.

26. Was the whole election in the said constituency void?

No.

27. Should a fresh election be ordered in the said constituency?

No.

28. Should the Respondents Nos. 1 and 2 be ordered to pay the Petitioner's total cost of this petition as well as matters arising out of the same?

No. Petitioner is ordered to pay the costs of Respondents 1 and 2 and bear his own.

(Any other relief?)

None.

(3) The following Issues were not pressed by the learned counsel for the Petitioner:—

- No. 3(a) and (b)
- No. 5
- No. 6(a) and (b)
- No. 10(c)
- No. 11
- No. 13
- No. 17
- No. 18(a) and (b) and
- No. 19.

(4) The prayer of the Petitioner is that the election of the Respondents Nos. 1 and 2 be declared void. Section 100 of the Representation of the People Act, 1951, hereafter referred to as "the Act", as modified upto the 1st August 1956, lays down the grounds for declaring an election to be void. Only those portions of Section 100 will be discussed which are relevant to this case and which were referred to in the arguments.

Section 100:

"...if the tribunal is of opinion

- (b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent, the tribunal shall declare the election of the returned candidate to be void..."

(5) What is to be noted in this provisions is that if the corrupt practice has been committed by any of the following three, viz. (i) the returned candidate, (ii) his election agent, or (iii) any other person with the consent of the returned candidate or his election agent, the election becomes void whether the result of the election in so far as it concerns a returned candidate has been materially affected or not, which, however, is a necessary condition in the case which does not come under clause (b) of sub-section (1) of section 100, but under clause (d) *ibid* which runs thus:—

Section 100(1)(d):

"If the tribunal is of opinion that the result of the election in so far as it concerns a returned candidate has been materially affected—

- (ii) by any corrupt practice committed in the interest of the returned candidate by a person other than the candidate or his election agent or a person acting with the consent of such candidate or his election agent, the tribunal shall declare the election of the returned candidate to be void."

Thus, if the corrupt practice is committed by the persons mentioned in (b), it is not necessary to prove that the result has been materially affected, but it is necessary to prove that ingradient if a corrupt practice is committed by a person other than those mentioned in clause (b).

(6) What shall be deemed to be corrupt practices has been given in Section 123 of the Act. Clause (1) *ibid* defines the corrupt practice of bribery. Clause (2) *ibid* defines the corrupt practice of undue influence. Clause (3) *ibid* deals with the corrupt practice of systematic appeal to vote or refrain from voting on grounds of caste, race, community or religion, or the use of or appeal to religious symbols or the use of or appeal to national symbols such as National Flag or the National Emblem for the furtherance of the prospects of that candidate's election. Clause (4) *ibid* deals with the corrupt practice of the publication of a false statement in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal or retirement from the contest of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election. Clause (7) *ibid* deals with the corrupt practice of the obtaining or procuring or abetting or attempting to obtain or procure any assistance for the furtherance of the prospects of that candidate's election from any person in the service of the Government and belonging to classes mentioned in that paragraph. Further discussion of the law regarding these corrupt practices will be made below at the proper places.

(7) There is one more part of clause (d) of sub-section (1) of section 100 which is relevant for the purposes of this case and it is sub-clause (iv). The provision runs thus:—

100(1) (d) (iv):

"If the tribunal is of opinion that the result of the election in so far as it concerns a returned candidate had been materially affected by any non-compliance with the provisions of the Constitution or of the Act or of any rules or order made under this Act, the tribunal shall declare the election of the returned candidate to be void."

The language is so clear that it needs no further discussion, and it would be convenient to begin with discussion of the issues to which the learned counsel for the Petitioner tried to apply this provision.

(8) *Issues Nos. 2, 4, 9 and 10(b).*—The Petitioner has not led evidence that his ballot boxes were kept late in the polling compartments of 53 polling centres mentioned in Annexure "C" to the petition. The only evidence led by him is about one polling station viz. polling station No. 9 of Byculla Constituency, Victoria Memorial School for the Blind, Tardeo Road, Bombay. Shri E. P. Bharucha, P.W. 16, was the Presiding Officer at the polling station. His report regarding the incident is Ex. P-34. He stated in his evidence that as the polling agents there (majority of polling agents present at the polling station according to the report Ex. P-34) had told him and his staff that Shri Hendre and Shri Parulekar had withdrawn, he did not keep their boxes in the polling compartment at 8 A.M. when the polling began, but he kept them there at about 11-30 A.M. (at 11-40 A.M. according to the report Ex. P-34) after Shri Hendre went to that polling station and he (the Presiding Officer) and Shri Hendre saw the Returning Officer. The Election Commission thereupon approved the taking of a fresh poll for Parliamentary election in this polling station only (*vide* telegram Ex. P-65) and the poll took place on Thursday the 21st March 1957 from 8 A.M. to 5 P.M. The learned counsel for the Petitioner contended that such a fresh poll could not be ordered as the ground on which it was ordered is not included in the grounds on which fresh poll could be ordered under Section 58 the only section which deals with the taking of a fresh poll at a polling station or place. It is a fact that it is not included in the provisions of section 58, but no provision has been brought to my notice by the counsel for the parties which would cover such a case and so the Returning Officer and the Election Commission took a step which was in consonance with justice, equity and fairplay. According to the learned counsel for the Petitioner justice, equity and fairplay required a fresh poll for the whole constituency and not only for this polling station. I do not agree with the learned counsel for the Petitioner in this view and I find that the action of the Returning Officer and the Election Commission was proper. Even assuming that it was not proper, the only provision under which the learned Counsel for the Petitioner tried to bring it was sub-clause (iv) of clause (d) of sub-section (1) of section 100. But according to that provision the result of the election in so far as it concerns the returned candidates Shri Dange and Shri Manay must have been materially affected. The ballot box of Shri Hendre was kept late only at one Polling Station. There was nothing wrong at the other 769 Polling Stations and so the voting at those Polling Stations was not at all affected by this delay in keeping the ballot box of Shri Hendre at that one Polling Station, and the difference in the votes obtained by Shri Dange and Shri Hendre is so great that even if all the votes (1000) at that one Polling Station are given to Shri Hendre, that would practically make no difference. Shri Hendre in that case would get 16,440 and Shri Dange would get 3,22,526 and Shri Manay would get 3,02,875. The votes secured by the other candidates would either remain unaffected or would even be reduced giving a corresponding rise in the figures mentioned above of the reduced votes of Shri Dange and Shri Manay. There is, therefore, not the least doubt that this non-compliance or delay in keeping the ballot box of Shri Hendre at one Polling Station has not materially affected the result of the election in so far as Shri Dange and Shri Manay are concerned and so the election of Shri Dange and Shri Manay cannot be declared to be void on this ground.

(9) *Issue No. 10(a).*—The learned counsel did not bring to the notice of this tribunal any provision for stopping the election in the whole constituency and this objection has no force. Moreover, the principle underlying the provisions of Section 58 viz. if there is something wrong at one polling station the polling at that particular Polling Station only should be declared void and it is not necessary to declare void the election in the whole constituency is applicable to the present case.

(10) *Issue No. 3(a) and (b).*—This issue was not pressed by the learned counsel for the Petitioner, and the only point I want to mention is that the type of checking the Petitioner wanted to have by his request has already been provided for in clauses (d), (e) and (f) of sub-rule (3) of rule 56. Those clauses are:—

“(d) subject to the provisions of sub-rule (2) the returning officer shall before any ballot box is opened allow the candidates and their agents to inspect all seals thereon and satisfy themselves that they are in order;

(e) the returning officer shall satisfy himself that none of the ballot boxes has in fact been tampered with;

(f) if the returning officer is satisfied that any ballot box has in fact been tampered with, he shall not count the ballot papers contained in any of the ballot boxes used at the polling station at which such box was used and shall follow the procedure laid down in section 58 in respect of that polling station;”

(11) *Issue No. 7.*—Sub-section (2) of section 57 which deals with adjournment of poll in certain emergencies provides that the votes cast at the election should not be counted until the adjourned poll shall have been completed. This provision does not exactly apply to the present case because the polling at the one station in this case was not adjourned, and no other provision has been brought to the notice of this Tribunal which covers this case and so there is no non-compliance of the provisions of the Constitution or of the Act or of any rules or orders made under the Act. There is, however, no doubt that the principle underlying Section 57 would govern this case, but that is not provided for in Section 100(1)(d)(iv). Even assuming that it is provided for therein, there is no doubt that the result of the election in so far as it concerns the returned candidates Shri Dange and Shri Manay has not been materially affected as shown above.

(12) *Issue No. 8.*—The objection in Issue No. 8 was dependent on the objection in Issue No. 7 and as the objection in Issue No. 7 is not sustainable, the objection in Issue No. 8 is also not sustainable. On the other hand, it is supported by sub-rule (3) of Rule 58 of the Representation of the People Rules 1956 which runs thus:—

“(3) After the counting of ballot papers contained in all the ballot boxes used at a polling station has been completed and the entry in respect thereof made in form 22, the returning officer shall announce the particulars in such entry.”

That is exactly what the Returning Officer did.

(13) I shall now deal with allegations regarding corrupt practices which are said to bring the case under Section 100(1)(b) or (d)(ii) of the Act.

(14) I shall first deal with the allegation regarding corrupt practice of bribery [Section 123 (1) of the Act.]

(15) *Issue No. 14(a) and (b).*—The only evidence on this point is that of Shri E. M. Awati, P.W. 5, and Shri S. L. Hendre, P.W. 1. Shri Awati is P.W. 5, stated—

“Vinayakrao Bhawe or anybody else on behalf of the Samyukta Maharashtra Samiti did not come to me. Nobody from Dange or from Atre came to me. Vinayakrao Bhawe did not come to me on 27th February 1957 and I did not tell him that I would retire if my expenses were paid to me. It is a lie that I got 1800 Rupees (Eighteen hundred rupees) from Vinayakrao Bhawe or anybody else. It is a creation of Shri Hendre's brain. I had told Ram Rajya Parishad that I could not afford to incur the expenses of election and as the Parishad was not giving me the necessary aid I would retire. I retired for this reason.” (p. 4).

The evidence of Shri Awati P.W. 5 thus shows that the version given in the petition by Shri Hendre is not a true version. Thus the alleged corrupt practice of bribery is not only “not proved” but is “disproved”.

(16) *Issue No. 14(c) & (d).*—In connection with parts (c) and (d) of Issue No. 14, the learned counsel for the Petitioner laid great emphasis on the explanation to sub-section (1) of Section 123 which runs thus:—

“For the purposes of this clause the term ‘gratification’ is not restricted to pecuniary gratifications or gratifications estimable in money and it includes all forms of entertainment and all forms of employment for

reward; but it does not include the payment of any expenses *bonafide* incurred at, or for the purpose of, any election and duly entered in the account of election expenses referred to in Section 78."

The contention of the learned counsel for the Petitioner was that there was an offer or promise of gratification that Shri Awati's withdrawal would be given publicly in the Maratha and a special photograph of his would be published. It was contended that it would thus amount to the corrupt practice of bribery as defined in sub-section (1) of Section 123 because there was an offer or promise by a candidate or his agent or by any other person, of the gratification mentioned above to Shri Awati with the object directly or indirectly of inducing him to retire from contest at the election or as a reward to him for having retired from the contest.

(17) The photograph of Shri Awati has been published in the Maratha dated 12th March 1957 (Ex. P-30) and below the photograph are the words:

"संयुक्त महाराष्ट्राच्या उमेदवारा करिता लोकमंघेरी उमेदवारा मागे घेणारे श्री आवाटी यांनी समितीच्या उमेदवारा प्रथम मतदान केले, दादरच्या शिवाजी मंदिरातील मतदान केंद्रात श्री, आवाटी दिसत आहेतु."

(Translation: Shri Awati who had withdrawn his candidature for the House of the People for the Samyukta Maharashtra candidate was the first to give his vote to the Samiti candidate. Shri Awati is seen at the polling station at Shivaji Mandir at Dadar.)

(18) When questioned in this connection, Shri Awati, P.W. 5, stated—

"Maratha representative did not come to me to take my photograph. Nobody asked me to attend to give the first vote at this election. These are our standing orders. The information is given by the reporter who was present with the photographer. We gave his photo and also that of Mrs. Awati because they were the first to go for voting." (p. 7) "It is stated in Ex. P-30 that Shri and Shrimati Awati voted for the Samiti candidate because my correspondent told me that they had in their hands Samiti cards. I had asked my staff photographer to take the photograph." (p. 20). All this explains how the photograph of Shri Awati happened to be published and how the statement below it happened to be made. It does not disclose offer or promise of any gratification to Shri Awati at all, and so it is not necessary to decide whether such a gratification comes within the explanation to sub-section (1) of Section 123 of the Act. I may, however, say that I am unable to see how it comes within the words "all forms of entertainment and all forms of employment for reward".

(19) Shri P. K. Atre, P.W. 4, Editor of the daily paper Maratha, made the following statement in this connection—

"I do not know whom Shri Awati voted for. It is a secret thing. I was not present when he voted. Our photographer took this photo. These are our standing orders. The information is given by the reporter who was present with the photographer. We gave his photo and also that of Mrs. Awati because they were the first to go for voting." (p. 7) "It is stated in Ex. P-30 that Shri and Shrimati Awati voted for the Samiti candidate because my correspondent told me that they had in their hands Samiti cards. I had asked my staff photographer to take the photograph." (p. 20). All this explains how the photograph of Shri Awati happened to be published and how the statement below it happened to be made. It does not disclose offer or promise of any gratification to Shri Awati at all, and so it is not necessary to decide whether such a gratification comes within the explanation to sub-section (1) of Section 123 of the Act. I may, however, say that I am unable to see how it comes within the words "all forms of entertainment and all forms of employment for reward".

(20) Next come the allegations regarding the corrupt practice of 'undue influence' (Section 123 (2) of the Act), and first among these are the allegations regarding threats to the canvassers etc., of Shri Hendre with injuries by the candidate, his agent or any other person. (Section 123 (2) (a) (i) of the Act).

(21) *Issues Nos. 16, 21 and 22.*—Jital Batiwala P.W. 6, is one of the witnesses who speaks of the threats given to him. He is a person who sells old bottles to Shri Hendre and earns about 100 to 200 rupees per month from him and so is under his influence. He is a person who does not know what is the meaning of 'Swatantra', and the only work that was given to him was to distribute handbills and that too not in an area where he resides. I doubt if he was really picked up for any canvassing work. His evidence does not carry conviction.

(22) The same is true of Nagu, P.W. 7, who is an employee of Shri Hendre in his factory. According to him, he was not allowed to distribute the pamphlets by the people in the chawls who were all Mahars by caste. According to him, they asked him not to distribute pamphlets in the chawls, otherwise he would be beaten. So he did not distribute a single handbill. He admits that he did not know who those people were who had prohibited him from distributing pamphlets. He only knew from their faces that they were Mahars. There is nothing in his evidence to show that they were agents or canvassers of Respondents Nos. 1 and 2.

(23) P.W. 9, Dr. M. D. Desai, one of the candidates for election from the Sewari Constituency to the Bombay State Assembly, also complains of obstruction in his work of canvassing. He went to the extent of saying that one of his workers, Shri Anant Prabhu, was shown a knife by one in the crowd. Though he had reported this matter to the Police, he did not mention therein this incident of the showing of a knife by one in the crowd to Shri Anant Prabhu. He also admits that he did not ask for Police protection which he would ordinarily have done if one of his supporters had been shown a knife in the way alleged. It can, therefore, be safely inferred that the trouble, if any, was not of a serious nature.

(24) P.W. 10, Shri L. P. Lahoty, a medical practitioner, also says that he was prevented from distributing handbills of Dr. Desai and Shri Hendre in the Dabholkar Adda and he found some boards at the entrance of the Adda containing the words "Dr. Desai go away". He and the workers who were with him tried to go inside the Adda to distribute the handbills, but they could not get in as a number of men surrounded them and started arguing. They said that they were poisonous handbills and should not be distributed in that Adda—(He says):—

"I tried my level best to convince them and persuade them to remove their obstruction but I failed as they were telling me that as Dr. Desai and Shri Hendre were independent candidates their handbills should not come to the "adda". "Dabholkar Adda" is an area containing about two thousand voters. Those who obstructed were volunteers but I do not know whose volunteers they were. The people who obstructed me said that the "adda" belongs to Samyukta Maharashtra Samiti.....The people who obstructed at "Dabholkar Adda" were also saying, "Vote for Dange, Vote for Mane, Vote for Pathkar".

He admits that he did not report the incident at Dabholkar Adda to the Police and so this much is certain that the obstruction, if any, was not of a serious nature.

(25) P.W. 11, Shrimati Vatsala Vishwanath Patil, is again a person who went from chawl to chawl canvassing for Shri Hendre and Dr. Desai. She says that whenever Mrs. Desai was with them, they used to go in a car, otherwise they used to go on foot. It would be useful to quote her actual words regarding obstruction—

"Whenever we used to enter any building first children used to assemble there and used to shout "There must be Samyukta Maharashtra; Dr. Desai Murdabad". Then grown up persons used to join them. We used to tell them not to trouble us in this way but to allow us to do the canvassing. They did not allow us to do canvassing. If we gave handbills to anybody they used to tear it. When we used to go in motor grown up people used to throw lime and small stones (pebbles) at the car and some of them used to obstruct the car. After the 8th or 10th of February 1957 we were obstructed from going into buildings and lanes. We stopped canvassing in the last week of February 1957. When we were obstructed in one area we went to another area. We used to say that we also wanted Samyukta Maharashtra. Thereupon they used to ask us if we cared for our Kunku (कुंकू).")"

The last sentence seems to be meaningless, because only women used to go with her and Mrs. Desai for canvassing and the crowd could only cause violence to them and not to their husbands. She describes the period for which they worked in the following words—

"We worked for about a month and continuously. We used to have obstruction after 3 or 3-30 P.M. as men used to appear there after 3 or 3-30 P.M. We had no trouble from women voters upto 3 or 3-30 P.M. They used to throw lime and small stones (pebbles)

while the car was in motion or standing still. The stones were very small. They were not big enough to break the glass of the windows. We used to close the windows. We had on occasions to change our clothes because of the lime thrown on us. We were not injured by the stones because they were too small. Nobody pointed knives and penknives at us nor did anybody threaten us with them. They even did not say that they would injure our husbands with them. They only said that we should care for our कुंकू. We could distribute the first handbill successfully but could not distribute the second or the third. In the beginning we had no trouble from men but later on they began to trouble us from 1 P.M. even."

The statement of this witness that the crowd asked them to care for their 'kumkum' either shows that here evidence is not reliable or that the crowd wanted them to go away by some such kinds of hollow threats as they were working for two independent candidates and the crowd wanted to support the Samiti candidates. The story that lime and pebbles were thrown at them also seems to be an exaggeration as I am unable to understand how the clothes could get covered with lime when they used to close the glass windows of the car. Had it been a fact, this witness and the others would never have worked continuously for a month. What seems to have happened is that in the beginning every candidate went about canvassing and later on people made up their minds to support certain candidates and they did not want to have the trouble of visits of canvassers of the other candidates over and over again. It is to avoid the repetition of the visits of the canvassers that hollow threats like the one mentioned above viz. that they should care for their Kunku might have been given, if at all.

(26) This is supported by the other witness Shri Shivshankar Vyawahare, P. W. 12, who says—

"In the first week of February we could distribute the handbills and talk to the voters without any obstruction or disturbance. But from the second week thereof we began experiencing obstruction. Whenever we went to any chawl we found a board thereon that the canvasser of no other candidate except the canvasser of the Samiti candidate should enter the premises".

(No such board has been produced. On the other hand, the photo of the board that is produced in evidence—Ex.P.-29—is to the effect that volunteers of Congress should not enter their chawl.)

The witness proceeded:

"In spite of those boards we went into the chawls. We were asked by some people with whose permission we have entered the chawl. I replied that we have entered the chawl to canvass for Shri Hendre and Dr. Desai and that nobody's permission was needed. I also told them I have a right to go to each voter. . . . On receiving the answer given by me, the atmosphere there became very hot and we were hooted out. So we came down and out of the chawl. This is about what took place in the Bachhu Pardeshi Chawl. . . . On the next day, we went to another chawl known as Hararwalla building. We went to the second floor and began to distribute handbills. We had distributed half the number of handbills when people began to come from downstairs and on coming to the second floor they began to shout 'We must have Samyukta Maharashtra with Bombay'. We replied that we wanted the same. The crowd said that we were traitors to the cause of Samyukta Maharashtra and that none except Samiti candidates were true to that cause. As they caused lot of disturbance, we thought it would be wise to leave the place and accordingly left the place. While we were coming downstairs, somebody from behind gave a push. I would have fallen down if there had not been people in front of me. But because of the people in front of me I was saved. When we came down stairs somebody in the crowd snatched the handbills which were with one of us namely Shri Anant Prabhu. These handbills were thrown down on the ground and trampled. So we went home."

It is difficult to know what kind of canvassing this witness could have done, because he admits that he does not remember the contents of the handbills, and has the frankness to admit that he did not do any other canvassing except distributing handbills.

(27) The extent of the obstruction can be very easily known from the following statement of this witness—

"We continued our canvassing till 27th or 28th of February 1957. I did not do any canvassing after 27th or 28th February. We stopped canvassing on the 27th or 28th February because the whole canvassing was done by that date."

(28) Even Dr. Birje, P.W. 13, speaks more or less in the same terms regarding the obstruction. He says:—

"I had gone to some places for canvassing. In the first week of February I could canvass without any disturbance.....My office was in the shop of a person whom I know but whose name I do not know. That man asked me to remove the office and so I removed it and put it at another place. I opened the office in the compound of my own house."

(29) Keshav Gundoji Rasal, P.W. 14, not only supports this, but he gives a clearer picture of the mind of the people in that area. He said—

"We started the work from the first week of February. In the first fortnight of February 1957 we distributed the handbills to those only with whom we were acquainted. When we started to go to those people again in the second fortnight of February we found that having known of our activity in the first fortnight some people stopped us from going in saying that none but Samiti people should go in. We returned back. This is about Clarke Road Municipal tenements. The next day we went to Rawali Camp. I met my friends there and told them that Shri Hendre was standing for the election and gave his handbills to them. I gave some handbills to some of my friends and asked them to distribute the handbills. Eight days later, we again went to the same area namely Rawali Camp. My friends and a lady worker returned the pamphlets saying that they could not distribute them. Mrs. Sen said this. We then went to Worli. We went to Chawl No. 56. There also the people from the Chawl came outside and told us that we should not go inside to distribute the pamphlets. They said that nobody else had permission to go inside except people of the Samiti. In the first week of March, we again went to all these areas in a car. We found posters affixed to the entrance of the chawl. It was written on those posters that none except Samiti people should go inside. Then I called my friends whom we had met earlier to Shri Hendre's house. We tried to persuade them to work for Shri Hendre, but they said they could not.....I had taken Shri Hendre to all these people several times before the date of election. The last time I took Shri Hendre to them was in the first week of March 1957. During the period from first week of January to first week of March during which canvassing was going on I used to meet Shri Hendre two to four times during the week and not every day....I used to work according to my convenience but I used to move about throughout the constituency.....I went to the three localities Jacob Circle, Rawali Camp and Worli area because I had my friends there....."

(3) Fredrick Salins, P.W. 15, says—

"I do not remember the dates but I canvassed for Shri Hendre for about seven days. I was working in Shri Hendre's office. After two days he asked me to go out for distributing handbills. I distributed handbills for about three or four days. I distributed them in Worli, Gamdevi, Kctwadi and Mazgaon area.

"In Gamdevi area after two days of distribution work, I was asked by the people who the candidate was for whom I was distributing the handbills. I told them it was Shri Hendre. I then gave them the handbills and they threw the handbills back. I even told them that he was also the supporter of Samyukta Maharashtra. They told me that only Samiti people can go to that area and distribute the handbills.

"I then came down to Slater Road. I had been to one of the buildings there. While coming down by the lift I found that three men were waiting for me. I tried to come out of the lift but they tried to push me inside the lift. There also they asked me whom I was canvassing for."

and when I told them that it was Shri Hendre they threatened me with assault if I again visited that building, I got frightened and went away. I did not know those persons and cannot name them. From there I went to Shri Hendre's house. He was not at home. The next day I went to him in the morning and told him that I was not going to work for him, because of what had happened the previous day."

(31) This witness again did not do any other canvassing except distributing the handbills. He says:

"Shri Hendre was an independent candidate and I do not know what principles he stood for. It was written in the handbill of Shri Hendre that he was a supporter of Samyukta Maharashtra, and so I got that information.....At other places I was able to distribute handbills but not successfully. By 'not successfully' I mean some of the persons refused to take the handbills.....I now say that the three men told me that I should not go to that area unless I was a Samiti man. They told this to me in Hindi. I do not remember the exact words."

Having considered the evidence of this witness carefully, I am of the opinion that his evidence that three people tried to push him inside the lift and that they threatened him with an assault if he again visited that building is not reliable. They would have rather pushed him out than pushed him inside the lift.

(32) It is also not very easy to believe the evidence of Shrimati Lalita Tajen Sen, P.W. 17. She says that she came to know Shri Hendre at the time of the 1957 general elections, when he had gone to her place with one Shri Rasal. They gave her Shri Hendre's handbill to read and on reading it she expressed her willingness to distribute his handbills and canvass for him. She says—

"Most of the people residing in the Rawali Camp area told me that they would beat me if I worked for Shri Hendre and that I should work for the Samiti only. This is why I did not do any canvassing or distribution of pamphlets for Shri Hendre. Out of the ten thousand people in Rawali Camp about seven thousand are Scheduled caste."

She does not give any details as to what attempt she made and on what occasion the people told her that they would beat her if she worked for Shri Hendre.

(33) The evidence of Shri Vishwnath Jairam Wable, P.W. 19, is no better. He speaks of the meeting held in Shivaji Park on 9th March 1957. He says about three lakhs of people were present at that meeting and the speakers were Shri Dange and Shri Atre and others, though he does not remember the names of the other speakers. According to his evidence—

"Shri Dange said at that meeting that the independent candidates Shri Hendre and others should withdraw from the contest. He also said that if they do not withdraw it is well known what would happen next. He also said that "Shri Hendre was not an independent candidate but was set up by the Congress and so he could not be in favour of Samyukta Maharashtra. So the people should know him in that light".

It is clear from his own evidence that this witness is against the candidature of Shri Dange and Shri Mane and so his evidence has to be taken with caution. He says.

"I was a supporter of the candidature of Shri Hendre. I was not the supporter of the candidature of Shri Ambekar. I supported Shri Kajrolkar a Congress candidate in the election of 1957. I was against the candidature of Shri Dange and Shri Mane. I know Shri Yeshwantrao Chavan Chief Minister of Bombay in my capacity as a journalist. I was a supporter of Shri Chavan's candidature as against Shri Pawar. I did not work for Shri Chavan. I do not remember now if I had supported the candidature of Shri S. K. Patil."

It is very difficult to believe such a witness as to the exact words used by Shri Dange in the meeting.

(34) P.W. 20, Shri Pandurang Anant Parab, says that he had attended the Deslile Road meeting held on 26-2-57 and the Girgaon Chowpaty meeting held on 9-3-57. He says:

"The Deslile Road meeting was held on 26-2-1957. Shri Dange and Shri Manay had addressed that meeting. Shri Dange said in that meeting that Shri Hendre was set up by the Congress and so no one should vote for him as he would thereby cause a split in the Samiti votes. The Girgaon Chowpaty meeting was held on 9-3-1957. Shri Dange and Shri Manay addressed that meeting also. In that meeting also Shri Dange said that Shri Hendre was set up by the Congress only to split the votes the Samiti..... At the Chowpaty meeting the crowd was a lac or a lac and fifty thousand strong. In Naigaon area in the B.D.T. Chawl I was prohibited from distributing the handbills of Shri Hendre. The Samiti people were canvassing in that chawl. There I was obstructed by the public. By public I mean the people of the chawl and the Samiti people. The people snatched the handbills from me and told me that I should please not enter the chawl as most of the people there were going to vote for the Samiti.... I was neither a supporter nor an opponent of the Samyukta Maharashtra movement. Every one thinks that there should be Samyukta Maharashtra with Bombay. I was neither a supporter nor an opponent of the Samiti. The agitation which the Samiti was having for Samyukta Maharashtra with Bombay was neither according to me a good thing nor a bad thing. I worked for Shri Hendre for fifteen to twenty days. I used to work every day for two to three hours for Shri Hendre. I attended the public meetings of the Samiti because I was asked to do so by Shri Hendre. He asked me to report to him if anything was said against him in the meetings. I attended those twenty or twenty-five meetings in order to know what was said against Shri Hendre in those meetings and to report it to Shri Hendre. I did not keep a note in a Note Book of what was said and by whom and in what meeting against Shri Hendre. After each meeting I used to go and report the matter to Shri Hendre on the next day. Shri Hendre did not make a note of what I told him in my presence. The first such meeting I attended was at Sewaree. I do not remember the date of that meeting. Shri Dange and Shri Manay addressed that meeting. He did propaganda regarding the Samiti in that meeting. Shri Dange did not say anything about Shri Hendre in that meeting. I attended only four meetings for three or four hours. The rest of the twenty or twenty-five meetings I attended for two or three minutes and then left them. I attended the other meetings for two or three minutes only because I had to mind my own business also. I had not noted down the date of the Deslile Road meeting but I remember it. I did not see who was the President of that meeting. There were other speakers at the meeting except Dange and Manay. There were five or six other speakers but I did not know their names. I do not know any of those five or six speakers. I do not remember if the President of the meeting announced the names of those speakers and I do not remember their names. Shri Dange spoke for about one and a half hours at the Deslile Road meeting. Shri Dange did not say anything about Shri Yeshwantrao Chawhan in that meeting. He did not say anything about Shri S. K. Patil even. Shri Dange did not say anything against Shri Ambekar except that people should not vote for Shri Amekar. I do not remember if he said anything about Kojrolkar. Of the candidates Shri Dange spoke more about Shri Hendre and Dr. Desai than about any other candidate. Shri Dange asked the audience do not remember their number.....

" I do not remember who was the chairman at the Chowpaty meeting. I do not remember who else spoke besides Shri Dange and Shri Manay in that meeting. There were so many speakers that I do not remember their number. "

This witness did not make a note of what was said by Shri Dange in the meetings. Nor did Shri Hendre make such a note when he told him about it. According to him Shri Dange said that Shri Hendre and Dr. Desai were not independent candidates but were set up by the Congress while Shri Hendre in his petition stated that the propaganda against him was that he was set up by Shri

Chavan and Shri S. 'K. Patil. This witness, on the other hand, clearly states that Shri Dange did not say anything about Shri Yeshwantrao Chavan or Shri S. K. Patil. In view of what is stated above, I find this witness to be unreliable.

(35) The Petitioner has given in Annexure 'E' to the petition the names of more than 40 persons as his canvassers and supporters who were given threats of violence and obstructed, but he has been able to examine only a few of them and their evidence is found not to be reliable on these points, except to the extent of refusal to receive handbills and telling them that they should go away as they (the voters) were in favour of the Samiti candidates. Had there been any truth in his story of violence and threats of violence, he would have been able to lead more and much better evidence.

(36) The evidence discussed above clearly shows—

- (a) that there is nothing to show that those who are alleged to have obstructed the canvassers of Shri Hendre were the agents or canvassers of Shri Dange and Shri Manay.
- (b) that they were the voters residing in those areas;
- (c) that there was no violence or threat of violence;
- (d) that the canvassers of Shri Hendre could canvass freely in the earlier part of their campaign;
- (e) that subsequently when the canvassers of Shri Hendre wanted to repeat their visits and to distribute their handbills, the voters of that area did not like to be disturbed as they had made up their minds to support the Samiti candidates and so they refused to receive the handbills; and
- (f) that there is no reliable evidence led by the Petitioner as to what was said by Shri Dange and Shri Manay at the meetings and there is no reason for not accepting the version of Shri Dange, witness No. 1 and Shri Manay witness No. 6 for Respondents Nos. 1 and 2, as to what they said in the meetings which is—

Shri Dange, 1-2 R.W. 1:

"I do not think I ever referred to Mr. Hendre in my speech but I certainly used to say that opponents of the Samiti were in general supported by the Congress or were helping the Congress by standing against the Samiti. I used to say in these meetings that those who were opposed to the Samiti candidates would split the votes of the Samiti and thereby help the Congress. I do not think that in any of my speeches in Bombay I said that Shri Hendre was put up by the Congress."

Shri Manay, 1-2 R.W. 6:

"In that meeting I did not refer to the candidature of Shri Hendre or any other individual candidate. It is not true that I stated in my speech that Shri Hendre was put as a candidate by the Congress."

(37) Thus there is no evidence that Shri Dange, Shri Manay, their agents and canvassers did any propaganda in meetings or while canvassing, against Shri Hendre individually that he was set up by Shri Chavan and Shri S. K. Patil, and the propaganda was that the opponents of the Samiti were in general supported by the Congress or were helping the Congress by standing against the Samiti.

(38) My finding on the three Issues No. 16, 21 and 22 are, therefore, in the negative except for whatever would be found in the discussion to follow regarding the written propaganda in the issues of the daily newspapers 'Maratha'.

(39) ISSUES Nos. 12 and 15.—In view of the above findings regarding the oral evidence, the two Issues Nos. 12 and 15 are reduced to whether the propaganda in Maratha—

- (i) amounts to the corrupt practice of undue influence within the meaning of Sub-Section (2) of Section 123 of the Act; and
- (ii) whether it amounts to the corrupt practice of a false statement relating to the personal character or conduct of the candidate Shri Hendre or in relation to the candidature etc. of the candidate within the meaning of Sub-Section (4) of Section 123 of the Act.

(40) A. This propaganda would be found in the following issues of Maratha:—

Ex. No.	Date of the Issue	Ex. No.	Date of the Issue
1. Ex. P-22	30-1-57	8. Ex. P-4	15-2-57
2. Ex. P-2	3-2-57	9. Ex. P-48	6-3-57
3. Ex. P-29	6-2-57	10. Ex. P-6	7-3-57
4. Ex. P-3	8-2-57	11. Ex. P-26	11-3-57
5. Ex. P-23	9-2-57	= Ex. P-27 Poster, and Ex. P-53 Poster	
6. Ex. P-24	12-2-57	12. Ex. P-31	16-3-57
7. Ex. P-1	14-2-57	& 13. Ex. P-5	29-3-57

(Ex. P-27 and Ex. P-53 are the same posters and they contain the same photographs as were given in Ex. P-26, but Ex. P-27 and Ex. P-53 were not printed and published by the Editor of Maratha, they were published by Shri Prabhakar Sanzgiri, Secretary, Hindi Communist Party.)

B. The other issues of Maratha produced in evidence, viz. Ex. P-36 (dt. 1-2-57), Ex. P-37 (dt. 5-2-57), Ex. P-39 (dt. 19-2-57), Ex. P-40 (dt. 24-2-57), Ex. P-41 (dt. 25-2-57), Ex. P-42 (dt. 26-2-57), Ex. P-43 (dt. 27-2-57), Ex. P-44 (dt. 28-2-57), Ex. P-45 (dt. 1-3-57), Ex. P-46 (dt. 2-3-57), Ex. P-47 (dt. 3-3-57) and Ex. P-49 (dt. 9-3-57) contain notices to the public of meetings called on behalf of the Samyukta Maharashtra Samiti and do not contain any written propaganda.

(41) The propaganda in the issues of the Maratha given in A above is in Marathi and the portions objected to have been given in Annexure "I" to this order with their translation as is given in Ex. "A" filed by the Petitioner with the petition, with slight variations at places where I thought it necessary so as to make the translation accurate.

(42) The learned counsel for the Petitioner first tried to bring these writings under Sub-Section (4) of Section 123 of the Act, which runs thus:—

"(4) The publication by a candidate or his agent or by any other person, of any statement of fact which is false, and which he either believes to be false or does not believe to be true, in relation to the personal character or conduct of any candidate, or in relation to the candidature, or withdrawal, or retirement from contest, of any candidate, being a statement reasonably calculated to prejudice the prospects of that candidate's election."

So, to bring the case under sub-section (4), there must be—

- (i) publication by a candidate or his agent or by any other person,
- (ii) it must be publication of any statement of fact;
- (iii) the statement of fact must be false;
- (iv) the publisher must either believe it to be false or must not believe it to be true;
- (v) the statement of fact must be in relation to the personal character or conduct of the candidate or in relation to the candidature or withdrawal or retirement from the contest of the candidate; and
- (vi) it must be a statement reasonably calculated to prejudice the prospects of that candidate's election.

(43) I shall begin with the consideration of the fifth requirement, and shall divide it into two parts, viz., either (a) the statement must be in relation to the personal character or conduct of the candidate, or (b) it must be a statement in relation to the candidature or withdrawal or retirement from contest of the candidate.

(a) I shall first take into consideration part (a) of the requirement viz., that the statement must be in relation to the personal character or conduct of the candidate. A distinction has been drawn between the criticism of a candidate

as a politician or a public man and statements in relation to his personal character and conduct. We get the following instructive observations in *MOINUDDIN B. HARRIS v. B. P. DIVGI* (3) E.L.R. 248 at p. 266; "In the Tirhut Division case *Shaik Muhammad Mansoor I Maulvi Muhammad Shafi Daudi*, (it) was held by the Election Tribunal that a distinction must be drawn between criticism of a candidate as a politician or a public man, and statements in relation to his personal character and conduct. Criticism of his public activities, however ill-mannered, unfair or exaggerated, it may be, is not forbidden. It is only when "the man underneath the politician" is attacked and his 'honour, integrity or veracity assailed that an election is liable to be set aside. It was held in this case that statements alleging that a certain person was 'a rebel from Islam' and 'a disgrace to Islam' were not such as to offend against the provisions of the election law as they were not directed against the man's personal character or conduct but against his activities as a public man. In the *Hoshiarpur West Muhammadan Constituency, 1937* case, the same view was taken,

"There are many decisions of Election Tribunals in England to the same effect. In the *Cockermouth Division* case, it was observed by Mr. Justice Darling—"Now it must be noted that what the Act forbids is this: You shall not make or publish any false statement of fact in relation to the personal character or conduct of such candidate; if you do, it is an illegal practice. It is not an offence to say something which may be severe about another person, nor which may be unjustifiable, nor which may be derogatory, unless it amounts to a false statement of fact in relation to the personal character or conduct of such candidate; and I think the Act says that there is a great distinction to be drawn between a false statement of fact, which affects the personal character or conduct of the candidate and a false statement of fact which deals with the political position or reputation or action of the candidate."

Bearing this distinction in mind, I have examined all these statements complained of and find that all of them deal with the political position or reputation or action of the Petitioner Shri Hendre and they do not affect his personal character or conduct. The 'man underneath the politician' is not attacked and his honour, integrity or veracity is not assailed except perhaps by one statement which will be discussed later on. In relation to other statements it is, therefore, really not necessary to see whether they are statements of fact and whether they are false, though it may be stated that the Petitioner has not been able to show that those statements are false.

(44) The statement about which he has made the greatest grievance is that he was set up by Shri S. K. Patil (Ex. P-2 and Ex. P-3) and Shri Yeshwantrao Chavan (Ex. P-1, Ex. P-5 and Ex. P-6). It is a statement about Shri Hendre as a politician and a public man and not regarding his personal character and so does not come within sub-section (4) of section 123 of the Act. He has also not been able to establish that the maker or publisher of the statement believed it to be false or did not believe it to be true. Shri Hendre was a person who had first asked for the Samyukta Maharashtra Samiti ticket and when he did not get it, he stood as an independent candidate with very little man-power and financial resources. He had only 30 to 40 persons to help him in the election in any capacity including polling agents, canvassers, etc., This number for such a big constituency having 770 polling stations and about 7,00,000 (seven lakhs) voters was so small that no effective canvassing could be done. He was opposing Shri Dange and Shri Ambekar,—persons with a long record of public service—and though he was standing as an independent candidate, he was giving out that he was in favour of Samyukta Maharashtra. This means that he was trying to get the votes of persons who were in favour of Samyukta Maharashtra and was not likely to get the votes of people who were in favour of the Congress. In the circumstances, it is not unlikely that the writer or publisher believed that he—who was likely to get votes from people who wanted Samyukta Maharashtra—was being set up by the Congress to split the votes of the Samiti candidates. The burden of proof was on the Petitioner to show that the publisher did not believe this to be true and he has failed to discharge it. So, for this reason also, the statement does not come under sub-section (4) of Section 123 of the Act.

(45) (b) The other contention of the Petitioner was that this statement viz., that he was a candidate set up by Shri Y. B. Chavan and Shri S. K. Patil to split

up the votes of the Samyukta Maharashtra Samiti was in relation to his candidature. In KRISHNAJI BHIMRAO ANTROLIKAR v. SHANKAR SHANTARAM MORE AND OTHERS (7 E.L.R. 100 at p. 117) we get the following observations:—

“..... Now, candidature has been described as the bundle of rights and qualifications which entitles a person to stand as a candidate in a particular constituency at well as the factum of his being a candidate: (See Sheokaran Singh v. Sahib Ram). The statements contained in Exs. 187 and 182 have no reference whatever to the right or qualifications of the petitioner which entitle him to stand as a candidate nor has it any reference to the factum of his candidature. It is not even his case that it is so. The learned advocate for the petitioner, however, argues that inasmuch as the statements in the said two exhibits have reference to his election and chances to succeed as a candidate in the election, the statements must be deemed to be in relation to his candidature. We are unable to agree with this view of the learned advocate. It is one thing to say that a certain statement affects the chances of a candidate at the election and quite another to say that it is in relation to his candidature itself. The words following that clause, *viz.*, “or withdrawal of any candidate” makes the meaning clear. In our opinion, the statement to come within the mischief of this part of the section 123(5) must relate to the right or the qualifications or the factum of the candidate as such. In the circumstances, we are unable to hold that the statements in any of the three exhibits are in relation to the personal character, conduct or candidature or withdrawal of the petitioner.”

Here also the statements do not relate to the right or the qualifications of the candidate or the factum of his being a candidate, and so it does not relate to the candidature of the petitioner within the meaning of sub-section (4) of section 123 of the Act.

(46) The statement which is alleged to be an attack on the personal character of Shri Hendre would be found in Ex. P-1 where Shri Sudhir Chavan while giving the story of the candidature of Shri Hendre stated:

“परंतु यशवंतराव मंत्री झाल्यावर कांढूस म मिलाल्यामं यशवंतरावा-वर नाराज झालेले यशवंतरावांची मैत्री-घर-नांव टाकलेले हेदे हे गृहस्थ आहेत.”

(Translation: But Hendre did not get any contracts from Yeshwantrao after the latter became Minister; therefore Hendre left friendship, house and name of Y. B. Chavan.)

There is no suggestion in this statement that Shri Hendre was trying to get the contracts by unfair means. In this connection it is necessary to know the business Shri Hendre was doing. He says:

“From 1945 to 1946 I was an accredited yarn purchaser of Bhiwandi Sari Manufacturers' Association. In 1946 I started an import export Company by name Sudhir & Co. In the middle of 1946 I established one Silk Mill called the Lokmanya Silk Mills. Both these businesses continued till the time of my insolvency *i.e.* upto 1949.” (p. 38).

He admits that he was adjudicated as an insolvent in May or June in an Insolvency Petition filed in 1949 and was discharged from insolvency in 1951. He gives in the following words what he did thereafter:

“From 1951 to 1953 I ran the business of Jagdish & Co. Manufacturing Surgical dressings on behalf of my wife and Amortex Agency also on behalf of my wife.” (p. 38).

This Amortex Agency Private Ltd. was registered in April or May 1953. He has also said:

“My business is manufacturing drugs chemicals and surgical dressings. The name of the Company of which I am the Managing Director is Amortex Agencies Private Ltd.” (p. 6).

These manufactured articles have to be sold and the manufacturer has to enter into contracts with the various firms and institutions including Government institutions to sell them. So it was not correct for him to say that he did not do any contract business. He is a person, who, as said above, was declared insolvent and

is given to making inaccurate and exaggerated statements. He stated that Shri Awati had told him that he retired in favour of the Samiti candidate on payment of 1800 rupees and a promise of wide publicity. Shri Awati, P.W. 5, however, very emphatically denies this. He said:

"It is a lie that I got 1800 rupees (eighteen hundred rupees) from Vinayak rao Bhawe or anybody else. It is a creation of Shri Hendre's brain.

(47) Shri Hendre admitted that he had no personal knowledge of the propaganda within the prohibited area of the polling station and yet he had made such an allegation in the petition, though ultimately his counsel had to say that he did not press this point i.e., Issue No. 17. Similarly, he admits that neither he nor any of his workers visited the 52 polling stations in which, according to him, his ballot boxes were either kept late or not kept at all and yet he made such an allegation in the petition though he could not prove it. He thus cannot be relied upon and he did not produce the very valuable evidence of Shri Chavan. It is not that he is absolutely unknown to Shri Chavan. He says:

"I have met Mr. Yeshwantrao Chavan and spoken to him but not in 'private capacity'. I must have met him at some public functions but not alone for private talk. I must have met him half a dozen times at public functions. At these functions I was an invitee. So also Shri Yeshwantrao Chavan. The first of such occasions was the Deserah Sammelan in the Lokhandi Jatha in Bombay (Iron and Hardware Dealers Market). Considerable number of those who work in the Lokhandi Jatha came from Satara. Sudhir & Co. dealt in iron. The Lokhandi Jatha people called me on that occasion because I had dealt with them in iron. I used to import iron and hardware from U.K. in 1947. I had import license in 1947 and had imported goods through Ralie Brothers India Ltd. I imported girders, bars and some tools used by ironsmiths. That was a solitary transaction of import from U.K. I dealt in local dealings in iron in 1946-48. I had no office in Lokhandi Jatha. That was the first occasion I met Yeshwantrao Chavan. The last time I met him was about six months ago at a dinner given by the All India Manufacturers Organisation. I am not even a member of that organisation. I was invited by Shri Morarji Vaidya because the organisation was wanting me to be a member. I was introduced to Shri Yeshwantrao Chavan on this occasion by the Director of the Bank of Maharashtra Ltd." (p. 49).

In these circumstances, in the absence of any better evidence, I am unable to hold on the evidence of Shri Hendre alone that the statement complained of is a false statement and certainly there is nothing to show that the person publishing it believed it to be false or did not believe it to be true. In the circumstances discussed above, I am also unable to find that the statement is reasonably calculated to prejudice the prospects of Shri Hendre's election.

(48) The learned counsel also referred to the following statement in Ex. P-34 (Maratha, dated 12-2-57):

"समितोला विरोध करायचा तर ठघड माजावने करा, एवतःला "संयुक्त महाराष्ट्रवादी" म्हणखून बुद्धिवाचा लपंडाजी प्रचार कशाला? आज जर या, स्वतंत्रा" भी ही ऊगी आकीबमि मेकी, तर मुढे लोकहितादे काय दिये लालाबणार, से श्राणाक्षांना निराडे सांगायलास इवें असें नाही."

(Translation: If they want to oppose the Samiti they should do so openly. Why should they call themselves supporters of Samyukta Maharashtra and carry on this veiled propaganda? If this be the reliability and honesty of these independent candidates, it is not necessary to tell the discerning public what type of public work they are likely to do.)

The learned counsel for the Petitioner says that the reliability and honesty of the Petitioner is challenged by use of the words "आकीन नि नेकी" (आकीन = reliability; नेकी = honesty). But the reading of the whole letter clearly shows that it is his political reliability and honesty that is challenged and not his personal character.

(49) According to the learned counsel for the Petitioner, Ex. P-26 (Maratha, dated 11-3-57) was full of corrupt practices within the meaning of Section 123.

It would, therefore, be necessary to examine each page of it. On the front page the first line is:

महाराष्ट्राच्या सिंहांनीं, काँग्रेसच्या बैठाना उघडून लावों.

(Translation: Lions of Maharashtra, make the Congress bullocks bolt away.)

This is a political statement and it does not come within sub-section (4) of section 123. The next line is:

“महाराष्ट्राच्या संतानों, वीरगंनों, आम्हसला आशीर्वाद द्या”.

(Translation: Saints and warriors of Maharashtra, give us your blessings.)

Below the line are the photos of the great saints Tukaram Maharaj, Jnaneshwar Maharaj and of the great warrior and statesman Shri Shivaji Maharaj. This statement is only a prayer for blessings which every one is entitled to make to these saints. There is no suggestion of divine displeasure or spiritual censure here. Below these are the words:

“महाराष्ट्राच्या शिवशक्तीला तुमच्या मतचि यित्वपत्र द्या.”

[Translation: Worship the Shiv-Shakti (Power of Shri Shivaji Maharaj) of Maharashtra with the ‘Bel’ leaves of your votes.]

This again is a political appeal.

On the left side of this appeal is the picture of a well-built man above whose head are the words:

(Vow of the Maratha).

“महाराष्ट्राची प्रतिज्ञा”

Below this picture are the words: “कुठें आहे तो महादिभोषि-काचा काला दगड ? मलांच्या घणामी त्याजा चक्काचूरच करतो.”

(Translation: Where is the black stone of the great bilingual? I reduce it to powder by the hammer of votes.)

All this again is a political statement.

(50) On the third page of Ex. P-26 are the photographs of the persons who were said to have been killed in the Bombay firing. The appeal is:

“मुंबईच्या मराठ्यांनी, या गळसी कल्लीसा सूड घ्या..”

(Translation: Marathas of Bombay, take revenge of this devilish murder.)

Below the photos are the words:

“काँग्रेसची मतपेटी हुतात्म्यांच्या रक्तामें मरलेली आहे.”

(Translation: Congress ballot box is besmeared with the blood of the martyrs.)

These are also political statements or appeals.

(51) On the last page is a picture of a muscular hand with a Congress ballot box on the palm. The picture shows drops of blood falling from the box on the collection of dead bodies below the palm. On the top are the words:

“ही पाहिलीत काँग्रेसची मतपेटी?”

[Translation: Have you seen this ballot box of the Congress? (Or “Look at this ballot box of the Congress).]

At the bottom are the words:

“मराठ्यांच्या , रचहानें सी मरलेली आहे.”

(Translation: It is besmeared with the blood of Marathas.)

It is again a political statement.

(52) It is, however, said that it is an appeal to the Maratha community and comes within sub-section (3) of section 123 of the Act. The parts of that sub-section relevant for the purpose of this case are: "the systematic appeal by a candidate or his agent or by any other person, to vote or refrain from voting on grounds of caste, race, community or religion...for the furtherance of the prospects of that candidate's election". Thus there must be a systematic appeal and it must be to vote or refrain from voting on grounds of community. As has been held in *MOINUDDIN B. HARRIS v. B. P. DIVGI*, (3 E.L.R. 246 at p. 276), Section 124(5) [now section 123(3)] has to be construed not by itself but in the light of the Constitution of India and the intention of its framers. After the discussion of the provisions of the Constitution we get the following observations in that case:—

"When we examine section 124(6) [now section 123(3)] of the Representation of the People Act in the light of those provisions of the Constitution of India we are, we think, justified in assuming that the object of section 124(5) of the Representation of the People Act was to introduced into the principle of non-discrimination between different castes, communities and religions, which was emphatically laid down in the Constitution of India. Section 124(5) has merely carried into effect in the sphere of the law of elections the provisions of articles 15, 16, 29 and 325 of the Constitution of India. The mischief which section 124(5) was aimed at preventing was the voting for or against a candidate only because of his religion, caste, race or community and if that was, as we apprehend it was, the real object of the section, we must put a restrictive interpretation upon the unduly wide terms of section 124(5). As we have already pointed out, to put too literal a construction upon these words would undoubtedly in certain circumstances lead to hardship. To arrive at the real meaning of any piece of legislation, it is necessary to have a proper conception of the aims, scope and objects of the legislation: (Maxwell, Interpretation of Statutes, 9th ed., p. 22). In particular we have to see what was the mischief or defect which the law was intended to provide against. When we examine section 124(5) [now 123(3)] from this point of view, it seems to us that the section was intended to prevent attacks made on a candidate, or appeals made for a candidate, only on the ground of his religion, or attacks made only on the principles of his religion. It must have been for this reason that the words added in sub-section (5) of section 124 in the course of the second reading of the Bill followed very closely the language of the various articles of the Constitution of India, to which we have referred.

"The words used in a piece of legislation sometimes express more than what was intended by the legislature if the words are literally interpreted, and it is a well established canon of interpretation that all words if they be general and not express and precise, are to be restricted to the fitness of the matter. (Maxwell, Interpretation of Statutes, 9th ed., p. 63). We have shown above that the scope and object of section 124(5) was to provide in the field of electoral law those safeguards which the Constitution of India provided for in the articles to which we have referred. Looked at from this point of view we feel that it could not have been the intention of the legislature by this section to prevent all reference to religion in electioneering speeches, especially when the right to conserve the culture of a section of the citizens is expressly conceded in article 29(1) of the Constitution. The real intention of the section, in our opinion, was to prevent attacks on a particular religion or on a candidate, only on the ground that he is a follower of a particular religion. So interpreted, an attack on the petitioner on the ground that in his attitude on the question of the teaching of the Koran in municipal schools he took a view which was against the Koran, or against Islam, or against religion in general, would not fall within the purview of section 124(5). It would, in our opinion, be open to a person to tell Muslim voters that in view of the attitude which the petitioner had taken, or which the speaker believed he had taken on the question of the teaching of the Koran, he was not a person who could properly represent or further their interests."

(53) No doubt in *Sardul Singh Caveeshar v. Hukum Singh and others*, (6 E.L.R. 316 at p. 330), we get the following observations in paragraph 31 about this case:

"We agree with the view of the Bombay Election Tribunal "*in Moinuddin v. B. P. Dangi* that in determining the scope of section 124(5) we should have regard to articles 13, 19(1)(a), 25(1) and 29(1) of the Constitution, but do not think that in consonance with those provisions of the Constitution the scope of the section is narrowed down to prohibition of attacks on a particular religion or on a candidate, only on the ground that he is a follower of a particular religion. The wider scope of the words in section 124(5) which prohibits all kinds of appeals for vote in the name of religion, whether it is the religion of the electorate or of the candidate, would be quite in keeping with the power of the State to make laws restricting the freedom of speech and expression "in the interests of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence", which is now conferred by the amended article 19(2) of the Constitution."

But one of the members of the Tribunal (Shri Raghunandan Saran) which decided the case (*Sardul Singh Caveeshar v. Hukum Singh and others in Shiv Dutt and others v. Bansidas Dhangar and others* (9 E.L.R. 324 at p. 351) observed:

"Next we come to the leaflet, Ex. P2, entitled "Apke labh ki bat." The respondent admits having got copies of this leaflet printed and distributed in his constituency in furtherance of the prospects of his election but contends that it is not at all an appeal on grounds of caste or community but is an appeal on economic considerations only. Sri Faruqi finds that it is an appeal on grounds of community, but after giving the matter my best consideration I am of the opinion that it is not such an appeal. This leaflet espouses the cause of wage earners such as peasants, workers, artisans, petty shop-keepers and petty servants like patwaris and school-teachers and urges them to unite against those owing large vested interests and calls upon them to support in the election the respondent, who is one of them. In a sense the wage earners form a community apart from the community of capitalists, landlords, mill-owners and those engaged in the learned professions of pursuing other high walks of life, but such a community does not appear to be within the scope of section 124(5) now 123(3) of the Representation of the People Act, 1951; in this section the word community has been used along with the words caste, race and religion and must be given a narrower meaning than the dictionary meaning of a body of people having common interest. I may add that that the signatories of the leaflet, Ex. P2, include also a Muslim, an Ahir or Yadav, a Brahman, a Thakur, a Kayastha and a Vaish and in a sense this leaflet is the election manifesto of the respondent and declares the public policy of the K.M.P. party that had set up the respondent as its candidate. I hold accordingly."

Shri Raghunandan Saran's view is the majority view in that case as Shri Sanyal the third member agreed with him.

(54) Having considered the matter carefully, I am convinced that the word 'community' must be given a narrower meaning than the dictionary meaning of a body of people having common interests. There is no doubt that this is not an appeal to the Maratha caste, because the Samiti candidates included Brahmans, Scheduled Castes, Parsees, and Christians also and it was an appeal to the voters who would support these candidates. Was it then an appeal to the people speaking Marathi language and residing in Bombay? As I have said above, the Samiti candidates included Parsees and Christians also. The photographs at p. 3 of Ex. P-26 include the photos of Kaushik Vyas of Ahmedabad, Kanilal K. Parmar of Ahmedabad and Jayantilal Pandya of Ahmedabad who seem to be Gujaratis and not Marathi speaking people, and the words at the bottom on p. 3 are that "Congress ballot box is besmeared with the blood of the martyrs" and at p. 4 are "It is besmeared with the blood of Marathas". From all this it is possible to say that it was an appeal for support to the cause of Samyukta Maharashtra to all the voters living in that part of Maharashtra known as Bombay. But in that case he would have used the word "समूहकारांनी"; and so I am

of the opinion that the appeal was to all the Marathi speaking people living in Bombay without consideration of any caste, race, community or religion and so the relationship between the candidate and the voter that was appealed to was territorial and linguistic and as the Nation has accepted territorial units on linguistic basis in other parts of India, an appeal to such a relationship cannot be said to have been prohibited by sub-section (3) of section 123.

(55) I may also add that this is the only occasion that has been brought to the notice of this Tribunal on which in the propaganda the appeal was to the Marathas. The question is whether one such single appeal could be called a "systematic appeal". The Shorter Oxford English Dictionary gives the following meaning of the word 'system' viz. "an organized or connected group of objects.

set or assemblage of things connected, associated or interdependent, so as to form a complex unity; a whole composed of parts in orderly arrangement according to some scheme or plan." This indicates that to form a system there must be more than one unit and 'systematic' means "arranged or conducted according to a system, plan, or organized method; involving or observing a system; acting according to a system." So to establish that there was a systematic appeal to vote on the ground of community, more than one such appeal must be established. That is another reason why this appeal to the Marathas does not come within sub-section (3) of section 123.

(56) The learned counsel for the Petitioner then tried to bring the case within clauses (i) and (ii) of the proviso to sub-section (2) of Section 123. There is, however, no threat of social ostracism or ex-communication or expulsion from any caste or community or any attempt to induce a voter to believe that he or any persons in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure.

(57) The learned counsel for the Petitioner said that the use of the word हुतात्मा (martyr) indicated that the voter would be rendered an object of divine displeasure or spiritual censure if he did not vote for Samyukta Maharashtra. I am unable to agree with him as the cause for which those persons died was not divine or spiritual, but territorial and linguistic.

(58) The learned Counsel for the Petitioner then referred to the appeal of Shri Dange in the issue of Maratha, dated 6/3/57 (Ex. P-48) which is to the following effect:—

"कामगार बंधूनों, महाराष्ट्राची व १०५ हुतात्म्यांची शपथ आढे तुम्हाला. तां ११ ला मत दिल्याशिवाय बाहेरगांवी जाऊ नका व संयुक्त महाराष्ट्राचा धात करू नका .

४-३-५७

एस० ए० डंगे

अध्यक्ष.

(Translation:

"Brother workers, In the name of Maharashtra and 105 martyrs, do not go out on the 11th without giving votes and do not betray Samyukta Maharashtra.

4-3-57

- S. A. DANGE,

President,
S.M.N. Samiti."

Here again I am unable to see any suggestion that they will be rendered an object of divine displeasure or spiritual censure if they left Bombay without voting. The word "शपथ" is used only to strengthen the appeal and all that the appeal means is that they will be betraying the cause of Samyukta Maharashtra (a political cause) if they left Bombay without voting.

(59) I now come to the last argument of the learned counsel for the Petitioner in connection with this propaganda and it is that it was of such a type that it made it impossible for the voter to exercise freely his electoral right i.e., his right to vote or refrain from voting at the election. According to the learned counsel the appeal to the sentiment was so great that it prevented him from thinking altogether and made him vote like an automatic machine, and this effect was mainly produced by the pictures on the third page of Ex. P-26 (Maratha dated

11-3-57) and the poster (Ex. P-27—P-53). These are the pictures of the persons who died in the firing and they are described there as martyrs and there is an appeal that remembering their sacrifices the voter should make Samyukta Maharashtra Samiti successful. On the top of Ex. P-27—Ex. P-53, we find salutation to those immortal martyrs who have sacrificed their lives in the cause of Samyukta Maharashtra and Maha Gujra. In short, the poster Ex. P-27—P-53 and the third page of Ex. P-26 (Maratha dated 11-3-57) give the pictures of those who were killed in the firing at Bombay. They are described as martyrs who have sacrificed their lives in the cause of Samyukta Maharashtra and Maha Gujra and there is an appeal to the voters that remembering their sacrifices the voters should make the Samyukta Maharashtra Samiti successful. The first question is whether they make any false suggestion. No evidence has been led about it. On the other hand, the Petitioner himself as P.W.1 has stated—"I was very much opposed to the firing and the terroristic atmosphere created. I wrote certain letters to the Prime Minister, to Shrimati Indira Gandhi etc." (p. 14) The learned counsel for the petitioner has also admitted that though there was a request for enquiry, it was not granted. He no doubt tried to say that the refusal to hold an enquiry proved that there was a false suggestion by the photos but that is not correct, as it was the decision of the Executive and not a judicial finding. In the circumstances, it is not possible to say that the pictures make any false suggestion and if they do not, whatever is written there is nothing except a political appeal to the voters.

(60) The learned counsel for the Petitioner contended that the display of the ghastly pictures went beyond an appeal to the voters and they created hatred and spirit of revenge in the minds of the voters, thereby deadening their capacity to weigh the merits of the various candidates. In a parliamentary democracy, the voter decides whom to vote for not merely on the individual merits but also on the merits of the party based on its programme and its doings in the past. The past doings of a party therefore form an important part of the propaganda in the elections in a parliamentary democracy. The learned counsel for the Petitioner does not deny this, but he says that it is the presentation of those doings in the form in which it is done that he objects to. So long as the form of presentation is not prohibited, and as he has not shown that it was prohibited, he cannot complain of it. There is no doubt that these pictures must have revived the memories of what they heard or saw during the days of actual firing, but it is not possible to say that their power to think was deadened to such an extent that they could not exercise their right to vote freely. And this would be clear from the fact that the Congress candidate Shri Ambekar got 1,87,241 votes, Shri Kujrolkar got 2,09,769 votes and Shri Hendre himself got 15,440 votes. So this case cannot come under sub-section (2) of Section 123 which runs thus: "Undue influence, that is to say, any direct or indirect interference or attempt to interfere on the part of the candidate or his agent, or of any other person, with the free exercise of electoral right" which, according to its definition given in Section 79, means "the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election".

(61) The learned counsel for the Respondents Nos. 1 and 2 contended that the propaganda was against the Congress and Congress candidates and not against Shri Hendre who was an independent candidate supporting Samyukta Maharashtra and so the propaganda did not affect him and so he could not get advantage of the corrupt practice of 'Undue Influence'. The propaganda was, however, in favour of the Samiti candidates. The propaganda in the earlier issues of Maratha was against Shri Hendre also. It is, however, not necessary to decide this point as I have said that it did not constitute the corrupt practice of undue influence.

(62) The learned counsel for the Petitioner then drew my attention to the photo in Ex. P-29 of the Board:

"संयुक्त महाराष्ट्रच्या चवलीत काँग्रेस ने १०५ बींगचे बळी घेतले त्या काँग्रेसच्या स्वयंसेवकांनी ग्रामच्या चालीत येऊ नये"

As I have already said, there is nothing to show that this Board was put up by anybody on behalf of the candidates Shri Dange and Shri Manay and it was put there by the voters themselves. The words "ग्रामच्या चालीत" (in our chawl) support this view. It is, however, argued that an attempt to interfere with the free exercise of the right to vote was made by, asking the voters to "follow the example of the residents of this chawl". I am unable to see how it is an attempt to interfere with the free exercise of their right to vote.

(63) It was also argued that it was an invasion on the Petitioner's electoral right, as the right to stand included the right to canvass. The learned counsel for the Respondents, on the other hand, contended that the right to stand did not include the right to canvass. It is not necessary for me to decide this point as the right to canvass could not mean the right to enter the house of another without his permission. If all the tenants of the chawl had decided not to let the volunteers come in the chawl, the volunteers could not go in. There is nothing to show that the tenants had not taken such a decision. The tenants had thus exercised their own right, and the propaganda was that 'others should follow the tenants of the chawl' i.e. they should also exercise their right.

(64) The learned counsel for the Petitioner further drew my attention to the evidence of Shri Bharucha, P.W. 16, Presiding Officer at Polling Station No. 9, Victoria Memorial School for the Blind, Tardoo Road, Byculla, Bombay, wherein he has stated that the Polling Agents of all the candidates except Shri Hendre and Shri Parulekar were present there and that "the Polling Agents there" had told him and his staff that Shri Hendre and Shri Parulekar had withdrawn and so he did not keep their boxes in the polling compartment. The learned counsel for the Petitioner contended that this was a false statement of fact made by the Agents of Shri Dange and Shri Manay which they did not believe to be true and it was in relation to withdrawal or retirement from the contest of Shri Hendre and was reasonably calculated to prejudice the prospects of Shri Hendre's election, so it came within sub-section (4) of section 123. No doubt, the evidence of Shri Bharucha, P.W. 16, gives an impression that all the polling agents had told him, but that is contradicted by his own report made on the same date (11-3-57)—Ex. P-34—wherein he has stated "Having been informed by the majority of the polling agents present at my station that candidates No. 5 Shri Parulekar and No. 7 Shri Hendre had withdrawn from the contest.etc. etc." It is thus clear that not all the four Polling Agents (*viz.*, Polling Agents of Shri Dange, Shri Manay, Shri Ambekar and Shri Kujrolkar) gave him that information but majority of them gave it. So at least one out of the four did not give it. Who was that one who did not give it? He may be polling agent of any one of the four, and as it is not possible to say whose polling agent that one was, the benefit of this doubt will have to be given to both *viz.*, Shri Dange and Shri Manay. So it is not proved that the false statement regarding withdrawal or retirement from contest was made by the polling agent of Shri Dange or Shri Manay and so the case does not come under sub-section (4) of section 123 of the Act.

(65) *Issue No. 1:* The above discussion shows that no corrupt practice was committed at all and so it is not necessary to decide if the Respondents 1 and 2 Shri Dange and Shri Manay would be held responsible for the acts of Shri P. K. Atre. Thus there is really no necessity of giving a finding on Issue No. 1 which is to the following effect:

"Did Shri P. K. Atre act as an agent, canvasser and supporter of Respondents 1 and 2 (Shri Dange and Shri Manay)?"

(66) The learned counsel for the Petitioner contended that Shri Atre was an agent of these two persons because he was a member of the Samyukta Maharashtra Election Committee of which Shri Dange was the Chairman, because Shri Atre was a candidate from the Girgaon Constituency for the State Assembly set up by the Samyukta Maharashtra Samiti which also set up Shri Dange and Shri Manay, and because Shri Dange, Shri Atre and Shri Manay addressed some of the election meetings together. This certainly shows that Shri Atre was the agent of Shri Dange and Shri Manay so far as the election meetings were concerned, but the question is whether he was their agent so far as the propaganda in the Maratha was concerned. Had it been an official organ of the Samyukta Maharashtra Samiti, he would have been an agent of these two Respondents for the propaganda in Maratha also. But it is clear from his evidence that the paper Maratha was not the official organ of the Samyukta Maharashtra Samiti, but his own paper. Shri Atre says: "The daily Maratha is my proprietary concern. I am the only proprietor. Propaganda was carried on in this daily Maratha on behalf of the Samyukta Maharashtra Samiti candidates. I was carrying on propaganda in favour of Shri Dange and Shri Manay also. . . . I started Maratha newspaper on 15th November 1956. I am the proprietor of this paper. I am not a member of any political party at present. My daily paper Maratha is not an organ of any political party. It is not an organ of the Samyukta Maharashtra Samiti but is the organ of Samyukta Maharashtra agitation. This is my paper for expressing the views of the people of Samyukta Maharashtra in the struggle between the Congress and the Samyukta Maharashtra people."

Shri Atre further says: "Shri Dange was the Chairman of the Samyukta Maharashtra Election Samiti. The Samiti consisted of various non-Congress political parties of Maharashtra. Communist Party was one of the constituents of which Dange was a member. I was and am a member of the Election Samiti. I am the chief whip of the Samiti Legislature Party of the Bombay State Assembly. Shri G. K. Manay was a member of the Scheduled Caste Federation and stood for the reserved seat on behalf of the Samiti. Samiti has no single political symbol as it is a joint front of different political parties.... Shri Dange and Shri Manay had no control over the writings in the Maratha. I am the sole proprietor of it and control the policy of writings."

As regards the propaganda, Shri Atre says: "I did not work personally as agent or canvasser of any candidate in the 1957 election. The paper Maratha did not carry on any propaganda for any individual candidate for the election. Samiti had set up candidates for constituencies outside the city of Bombay both for State Legislature and Parliament. My paper carried on a general propaganda for all the Samiti candidates within or outside Bombay proper."

Shri Dange 1-2 R.W. 1 says: "I was and am the President of the Parliamentary Board of Samyukta Maharashtra Samiti. ... After this suspension, several leaders of the other parties including myself issued an appeal for the formation of an organisation to agitate for the Samyukta Maharashtra. After a long time thereafter the Samyukta Maharashtra Samiti was formed. The Samyukta Maharashtra Samiti consists of eight or nine parties or groups and also individuals. Those individuals do not belong to any party but have a standing in public life. The Indian National Congress is not a component party of the Samyukta Maharashtra Samiti. But some Congressmen who differed from the policy of the Indian National Congress on this point are members of the Samyukta Maharashtra Samiti. ... I know Shri P. K. Atre. He is an independent, individual, member of the Samiti. He is also a member of the Parliamentary Board of the Samiti. Shri Atre is an Editor of the daily paper "Maratha". The Samyukta Maharashtra Samiti has nothing to do with the Maratha. The Samiti has no official organ of its own. I did not myself or through my agents request Shri Atre to make any propaganda for me through his paper. Shri Atre addressed various meetings in support of the candidates put up by the Samiti in order to support the aims and objects of the Samiti. ... I may mention that there were two types of members of the Board viz., regular members and invitees. Shri Atre was an invitee member. ... All the parties which constituted the Samiti carried on propaganda in their own (parties') name but to support the Samiti candidate."

In these circumstances, does Shri Atre come within the definition of "agent" given in the explanation (1) to Section 123 which has been made applicable to sections 99 and 100 by sub-section (2) of section 99? Explanation (1) to Section 123 says: "In this section the expression "agent" includes an election agent, a polling agent and any person who is held to have acted as an agent in connection with the election with the consent of the candidate". This definition assumed this form after modifications made in the year 1956. Prior to it, the definition was given in clause (a) of Section 79 and it defined 'agent' as including an election agent, a polling agent, and a counting agent and any other person who on the trial of an election petition or of an offence with respect to any election petition or of an offence with respect to any election, is held to have acted as an agent in connection with the election with the knowledge or consent of the candidate. The amended definition does not contain the words "with the knowledge". So now a person cannot be held to be an agent of a candidate unless it is established that he acted with the consent of the candidate. The consent may be oral or in writing and it may be express or implied. But the circumstances must justify an inference of consent. The question is whether such an inference of consent is possible in the present case. As it was a purely private concern of Shri Atre over which neither Shri Dange nor Shri Manay nor the Samyukta Maharashtra Samiti had any control and he could write whatever he liked, I find it difficult to draw an inference that there was consent to the propaganda. So my finding is that so far as the propaganda in Maratha is concerned, Shri Atre was not the agent of Shri Dange and Shri Manay.

(67) Issues Nos. 23 and 24.—In view of what is stated above, the points raised in these issues do not arise.

(68) Issue No. 20.—The only polling station where the polling agents of Respondents 1 and 2 could be said to have obtained or attempted to have obtained assistance of the Presiding Officer for the furtherance of the prospects of election of Respondents 1 and 2 by inducing the presiding officer not to keep the ballot

box of the petitioner in the polling compartment by falsely informing him that the Petitioner had already retired from the contest at the election and by defacing the name of the Petitioner on the notice board hung at the entrance of the polling compartment was polling station No. 9, Victoria Memorial School for the Blind, Tardeo Road, Vyculla Constituency, Bombay. That presiding Officer was Shri E. P. Bharucha. He describes himself as Leather Expert to Bombay Government. The learned counsel for the Petitioner could not say if he came within any of the clauses (a) to (g) mentioned in sub-section (7) of Section 123 of the Act. Moreover, as has already been stated above, it is not shown that it was done by the Polling Agent of Shri Dange or Shri Manay.

(69) Further, this alleged corrupt practice is not said to have been committed by the returned candidate or his election agent or by any other person with the consent of the returned candidate or his election agent, but is said to have been committed by his polling agent and there is no allegation or proof that it was committed by the polling agent with the consent of the returned candidate or his election agent. So the case would not come within clause (b) of sub-section (1) of section 100 but under clause (d) which requires that the result of the election in so far as it concerns the returned candidate has been materially affected. As has already been stated above, even if all the 1,000 votes in this Polling Station had been secured by Shri Hendre, that would not have affected the position at all and the result of the election in so far as it concerns the returned candidates Shri Dange and Shri Manay has not been materially affected. The election cannot, therefore, be declared void on that ground.

(70) Issues Nos. 25 to 27.—The election of the Respondents 1 and 2 not being void, the question of a fresh election does not arise. The petition fails and is hereby dismissed.

(71) Issue No. 28.—The Petitioner shall pay the cost of Respondent No. 1 Shri Dange and Respondent No. 2 Shri Manay and bear his own. Counsel's fee will be Rs. 500 (Rupees Five Hundred) each for the Respondents.

Member,

Election Tribunal Nagpur.

ANNEXURE "I"

(Reference: Paragraph 41)

Portions in the propaganda in Maratha objected to with translation as is given in Ex. "A" filed with the petition.

(More accurate translation is shown in brackets)

Ex. P-22—Marotha, dated 30-1-57;

हा एकांडा शिलेदार कोण ?

मध्य मुंबईतील लोकसभेच्या जागेसाठी संयुक्त महाराष्ट्र समितीचे उमेदवार को० श्री अ० डांगे व काँग्रेसचे श्री गं० दे० अविकर यांच्याखेरीज श्री सुधीर हेड्रे नांवाचे एक गृहस्थ उमे राहणार असल्याची बातमी प्रसिद्ध झाल्यापासून या विभागातील सहा लाख मतदारांचे प्रतिनिधित्व करून इच्छिणारा हा महान् एकांडा शिलेदार कोण, याची चौकशी करण्याला आम्ही सुरुवात केली, 'अॅब्सडर' या पाक्षिकाचे आयण संपादक असल्याचे हेड्रे यांनी जाहीर केल्यामुळे या पाक्षिकांत कदाचित त्यांच्या राक्षसीय नेतृत्वाचा 'भय आविष्कार' होईल म्हणून आम्ही यहा पाक्षिकाच्या शोधार्थ अनेक नियतकालिकांचे "स्टोल" धुंडालले. पण तेथे हें कोणतें पाक्षिक आहे याची माहिती विश्रुत्यांमात्र देण्याची आमच्यावर पाली झाली. बऱ्याच प्रयासानंतर आम्हांला कललें की, श्री हेड्रे हे, 'अॅमॅटिक्स एजन्सी' मावाण्या कोठल्या तरी कंपनीचे डायरेक्टर आहेत .

Translation as in Ex. "A":

WHO IS THE SINGLE-HANDED FIGHTER?

After we came to know that one man called Sudhir Hendre is contesting a seat to Lok Sabha from Bombay City Central, along with the candidate of the S. M. Samiti Com. S. A. Dange and the Congress candidate Shri G. D. Ambekar, we started inquiring about this great single-handed fighter desirous of representing the 6,00,000 voters in this constituency. Since Hendre had declared that he was the editor of the Ambassador, a fortnightly magazine, we thought that we would get a grand inkling in his political thought in the magazine and searched for it on all stalls in Bombay. But we had to give the information about this magazine to the stall holders! After a lot of effort we learnt that Mr. Hendre is a director in some company called Amortex Agencies.

Ex. P-2—Maratha, dated 3-2-57:

स० का० पाटलांच्या चाललेल्या कारवाया

मपादक 'मराठा' :

आनल्या दि. ३० जानेवारीच्या 'मराठा' मध्य प्रसिद्ध झाल्याप्रमाणे स० का० पाटील यांनी
 डॉ० दिजे यांना समितिच्या डॉ० नरवणे यांच्या विरुद्ध स्वतंत्र उमेदवार म्हणून उमे केले आहे .
 पण त्याच्याहि आधी मंगरा दिवस स० का० पाटील यांच्या ह्या धूर्त कारवायांबद्दल थोडीफार चुणूक
 नना मिलाली होती. (मध्य मुंबई बून स्वतंत्र उमेदवार म्हणून लोक-सभेसाठी मी उमा राहणार
 आहे' असे सांगण्यास एक गृहस्थ आला होता. त्याचीहि उमेदवारी स० का० पाटील यांच्या
 मागण्यावसनच आ . पण, कितीहि असे स्वतंत्र उमेदवार अथवा अन्य पक्षांचे उमेदवार समितीच्या
 उमेदवारा विरुद्ध असले तरी आम जनतेला काँग्रेस सरकारच्या कपटी कारवाया कलुन चुकल्या आहेत

—सौ० विजया विनायक पारपट्टे,

दादर.

S. K. Patil's Schemes (Doings):

To the Editor, Maratha,

As per Maratha, dated 30-1-57, it appears that Mr. S. K. Patil has put up Dr. Birje against the Samiti's candidate Dr. Naravane. But I had a sample of Mr. Patil's plot, fifteen days earlier. One man had come to inform that he was standing as independent candidate for Lok Sabha from Bombay City Central Constituency. This man's candidature is also Patil-sponsored. But even though so many independent candidates would stand against the S. M. Samiti's candidates, the whole masses have come to know the evil plot of the Congress Government, etc...etc.

Sd./- Mrs. Vijaya Vinayak Parpatté,

Dadar.

Ex. P-3—Maratha, dated 8-2-57:

कूटपाड्यांची आघाडी

वस्तुतः वरील त्याकथित लोकांची आघाडी स० का० पाटलांच्या आशीर्वादाने जगत आहे .

Traitors' Front: Front of the people trying to cause split (in the S. M. Samiti).

Really this United front, of Hendre, Birje, and Desai is living on the support (blessings) of Mr. S. K. Patil.

Ex. P-23—Maratha, dated 9-2-57:

तीन तिरशिगराव

... ते हे दोघें डॉक्टर संयुक्त महाराष्ट्राचे आज शत्रु बनले आहेत. ह्या दोघां तिरशिगरावांना सुधीर हेंद्रें नांवाचे एक तिसमारखान मेऊन मिलांले आहेत. सुधीर हेंद्रें यांचे मांच आम्हीं जन्मांत कधीं ऐकलें नाहीं. आम्हींच काय. पण कोणीहि ऐकलें नसेल. आतांपैत अप्रसिद्ध असलेल्या ह्या गृहस्यांनीं एकदम प्रसिद्धीला येण्याची एक घाडसी युक्ति शोधून काढसूली आहे. तेपडांगे आणि अंबेकर ह्यांच्या श्रीवरीं नें मध्य मुंबईधून 'लोकसभे' साठीं उमे राहिले आहेत. बिजे. देसाई आणि हेंद्रेंस्वांनहीं ह्या तीन तिरशिगरावांनीं एक, संयुक्त आघाडी, अनविलीअसून.....

शे० का० फे०ची कांहीं मते आमल्याला मिलतील अशा खोट्या धापां मास्त डा० अंबेडकरांच्या कडल्या अनुयाया रोष सुधीर हेंद्रें ह्यांनीं आमल्यावर आढवून आपल्यावर आढवून घेऊं नये, वस्तुतः ह्या तिचांच्या पत्रकाची दखलसुद्धां आम्हीं घ्यावयाला नको होती. पण 'समितीच्या विरुद्ध कांहीं दुष्ट लोक ककित्ती खोटा आणि लबाडीचा प्रचार करतात ह्याची संयुक्त महाराष्ट्रवादी मतदारांना कल्याणा यावी म्हणून आम्हाला त्याचा समाचार घ्यावा लागला. आगामी निवडणुकींत मुंबईमजले मराठी मतदार ह्या तिघां तिरशिगरावांचें, तीन पाट, काढतील ह्याविषयीं आम्हांस बिलकुल शंका नाहीं.

Three Musketeers (Tirshingrao)

Dr. Birje and Dr. Desai have now become enemies of Samyukta Maharashtra. Another "Tismarkhan" Sudhir Hendre has joined them. Not only we, but no one else had ever known the name of Sudhir Hendre. This unknown man has made this bold stunt to contest these elections along with Dange and Ambekar only to become well-known. It is reported that these three have opened a united front....Sudhir Hendre should not attract the wrath of the followers of Dr. Ambedkar by false statement made with a view (that he is going to get some votes of the Scheduled Caste Federation) to obtain a few votes of the Scheduled Castes Federation. We should not have acknowledged the statement issued by the three. But to inform the voters of S. M. Samiti how certain evil persons make false and misleading propaganda against the "Samiti", we have dealt with it. We have no doubt that the voters will shave these three musketeers in three parts. (Toen pat) in the coming elections....

Ex. P-24—Maratha, dated 12-2-57:

हेंद्रे यांची प्रचारी हुंक्मळी

संपादक मराठा,

संयुक्त महाराष्ट्र समितिला निरोध करण्यासाठीं, डॉ० बिजे, डॉ० देसाई देसाई आणि सुधीर हेंद्रे यांनीं तिरंगी आघाडी लघाली आहे. हें सर्वश्रुतय आहे. मैकीं हेंद्रे यांच्या प्रचाराच्या हस्तपत्रिका याज बादर विमार्गांत कांहीं पोरे वाटत होतीं। त्या पत्रिकांच्या मथलयावर "मध्य मुंबईईतून लोक सभेसाठीं संयुक्त महाराष्ट्रवादी स्वतंत्र उमेदवार श्री सुधीर हेंद्रे। अशी जांडजूड टायपांची मुलावणी असून, मुन्हां खालीं। नवीन व्यवहारी समाजबवादाचे पुरस्कते संयुक्त महाराष्ट्रवादी स्वतंत्र उमेदवार" अशी त्यांनीं आपल्या नांवाभागे बिरुदावली आहे, ओडलं एकबाल सगले 'स्वतंत्र उमेदवार सं० भ० समितीला विरोध करण्यासाठीं' म्हणजेच आमलें नाक कामून जनदेव्या राष्ट्रीय अशा—आकांक्षांचा

अपशकून करण्यासाठीं हट्टबादाजें उमे राहिले आहेत. हें काय लोकांना समजत नाही? तरीहि असला धडधडीत खोटा आणि फसवा प्रचार करायलाहि ज्या "स्वतंत्रा" जनामनाची लाजशरम वाटत नाही, त्यांची ओलख आणखी करत दिली माहिचे, उमें थोडेंच आहे? समितीला विरोध करायचा तर ऊबड आधयानें करा, स्वतःला "संयुक्त महाराष्ट्र वादी" म्हणून बुरख्याचा लपंडावी प्रचार कशाला? आज जर या "स्वतंत्रा" ची भी अशी आकीन नि नेकी, तर मुझे लोक-हिताचे काय दिवे लावणार, तें भाणाझांना निराळे सांगायलाच हवें अमें नाही. या 'स्वतंत्रा' या जनतेनें निवडणुकींत खड्यासारखें नियटून सांदीला दसवले पाहिजे.

—सौ० सरला मडकरी, मुंबई ।

Hendre's Propaganda Stunts:

To the Editor, Maratha,

It is well known that Dr. Birje, Dr. Desai, and Sudhir Hendre have opened a triangular front to oppose S. M. Samiti. From these, some boys were distributing leaflets for Mr. Hendre's publicity. On the top of these leaflets it is written that Mr. Hendre, the Independent candidate believing in the cause of United Maharashtra "in bold type" below which appear the words "the Advocate of Practical Socialism". (On the top in that handbill in bold type are the misleading words: "Shri Sudhir Hendre—an independent candidate—supporter of Samyukta Maharashtra from Central Bombay for House of the People." Below that portion are the words: "Independent candidate supporter of Samyukta Maharashtra and Advocate of new Practical Socialism".) These independent candidates have stood wholesale to oppose the S. M. Samiti i.e. to cut their own noses only to create ill omens for the nationalist hopes and aspiration of the masses? Even these independent candidates are not ashamed of themselves or of the people in making such misleading propaganda? And is it necessary to introduce these candidates to the masses? If they want to oppose the S. M. Samiti they should do it openly, why should they call themselves the believers in United Maharashtra? (Why should they have this veiled way of opposing by calling themselves the supporters of Samyukta Maharashtra?) If this is the behaviour and integrity (reliability and honesty) of these independent candidates, should not the discerning people know what public work these will do? (...it is not necessary to inform the discerning public that there is no hope from these people of any action of public benefit). Therefore the public should select them (pick them up) like stones (pables) and throw (them) away in a corner.

Mrs. Sarala Gadkari, Bombay.

Ex. P-I—Maratha, dated 14-2-57:

हेंद्रें यांच्या उमेदवारीचा इतिहास .

संपादक मराठा,

सं० म० समितीला विरोध करून लोकसभा आणि विधानसभा निवडणुकीसाठीं लगे राहिलेल्या कांहीं स्वतंत्र उमेदवारांनीं पत्रकारांना जोलावूकृत्याचिमसारे आपल्या उमेदवारीसंबंधी निवेदन नेंलें. आहें या निवेदनांतील तमशीलाशीं भला कर्तव्य नाही । परंतु लोकसभेसाठीं मध्य मुंबईतून उमे राहिलेले श्री सुधीर हेंद्रे हे आहेत कोण, निवडणुकीला कां ब कसे उमे राहिले हें आपण माहूं. १९५१ सालने ते यशवंतराव चव्हाणधि उजवे हात, भूमिगत चव्हाणांना पैशांनी, आस-ग्याची, चेवणखाण्याचीं व्यवस्था करणारे हितचिंतक, यशवंतराव मंचि होणयायूबीं त्यांचे मुंबईतील यजमान व जानीदोस्त आणि सल्लागार. १९५१ सा तीं मंत्रिमंडलाच्या शब्द निधिसाठीं जातांना हेंद्रेयांजकडून सत्काराचा हार आणि नादल पैऊन यशवंतराव नियालेले; मंत्री म्हणून शपथविधि झाल्या वर रावी हेंद्रेयांनींच यशवंतरावांना 'जगी व सयर्सगी' खानादिला; परंतु याशवंतराव मंत्रि झाल्यावर कोट्रेक्ट्स न मिला-ल्यानें यशवंतराववर नाराज झालेले यशवंतरावांची मंत्री-घर-नाव टाकलेले हेंद्रे हे गृहस्थ आहेत.

निवडणुकी आल्या मं० म० समितीची निकडणूक आपाजी तयार झाली उमेदवारांच्या याचा तयार होऊ लागल्या आणि समितीने आपणास उमेदवार म्हणून स्वीकारावे अशी खटपट हेंद्रे यांनीं सुरू केली. जमलें पर मुंबईल, नाहीता कुठेहि त्यांना उमे करावे अशी त्यांची घडमड होती. कुठे जागा रिकाबी दिखत नाही तर केशवराव जेचे यांच्या विरुद्ध उमे राहण्याची आमली तयारीहि दाखविली. पण सं० म० समिती त्यांना अधिकृत किंवा पुरस्कृत उमेदवार म्हणून स्वीकारत नाही असें दिसल्यावर मे थाडे नाराज झाले नोमिनेशन दाखल करण्याची तारीख बुकशन दिवसांवर आली. यशवंतराव चव्हाणांच्या मातोश्री मुंबईत आल्या. त्या सरल हेंद्रे यांच्या घरीं उतरल्या. १९५१ सालीं मंत्री झाल्यापासून हेंद्रे—चव्हाण यांचे संबंध विघडलेले होते व १९५२ सापून तर हेंद्रे चव्हाणांच्याघराची पायरी चाले नव्हते. ते आज चव्हाणांच्या मातोश्रीसह यशवंतरावांच्या घरां गेले. दोघांत गप्पागोप्पी झाल्या. दुसरे दिवशीं हेंद्रे यांनीं मध्यमुंबईतून लोकसभेसाठीं उमेदवारी मरली आणि रात्रीच्या गाडीनें चव्हाणांच्या मातोश्री हेंद्रे यांच्याच घरून सातारला निघून गेल्या.

इतकें सांगितल्यावर आणि काहीं सांगण्याची गरज आहे काय ?

—सुधीर चव्हाण, मुंबई.

History of Hendre's candidature:

To the Editor, Maratha,

Some independent candidates, who have opposed the S. M. Samiti candidates by contesting Lok Sabha and Vidhan Sabha seats, have issued a press statement about their candidature in a press conference. I am not concerned about the details of the Press statement. But let us (only) see why and how the independent candidate Sudhir Hendre has stood for this election. Hendre was the right hand man of Shri Yeshwantrao (B). Chavan in the Movement of 1942, was the well-wisher and sympathiser of Mr. Y. B. Chavan and used to help the latter when underground with money, meals, and shelter. Hendre was the host, dear friend and adviser of Y. B. Chavan in Bombay before he became Minister. In 1951, Yeshwantrao B. Chavan started for his oath-taking ceremony after he became minister, with the coconut and garland of felicitation from Hendre. After the oath-taking ceremony, Hendre gave Yeshwantrao (B. Chavan) a big technicolour Dinner party at the night of the oath-taking ceremony. But Hendre did not get any contracts from Yeshwantrao after the latter became Minister; therefore Hendre left friendship, house and name of Y. B. Chavan.

The elections came. The election front of S. M. Samiti came into being. Lists of candidates started getting ready. Hendre started efforts that Samiti should nominate him from anywhere in Bombay or elsewhere he wanted a seat to contest! When no seat was vacant he showed his willingness to contest against Jedhe. But after he came to know that S. M. Samiti was not willing to support him as its candidate he became disappointed (displeased).

The date of filing nomination was only one or two days ahead. Yeshwantrao Chavan's mother came to Bombay and went straight to stay at Hendre's residence. From 1951 Hendre-Chavan relations had deteriorated, and after 1952 Hendre had not stepped in Chavan's residence. That Hendre now went to Yeshwantrao's residence with the latter's mother. The two talked things over. Next day the said Hendre filed his nomination for the seat (for the House of People) from City Central Constituency and Chavan's mother went to Satara straight from Hendre's residence.

When this much is told, is anything more required?

Sudhir Chavan, Bombay.

Ex. P-4—Maratha, dated 15-2-57

बसू नका मडा

लोकसभेसाठी मध्य मुंबईतून स्वतंत्र उमेदवार म्हाणून उमे असलेले श्री सुधीर हेद्रे हे एका प्रतिष्ठित महाराष्ट्रीय बस्तीत निवडणूक प्रचारासाठी मेले आपला शकपक पोशाख व मोटर गाडी पाहून सुखवस्तु महाराष्ट्रीयीयाची तरी आपल्याला भते मिलतीलअशी त्यांना आशा होती

त्यांनी एका घराच्या दरवाजावरील घटी बाजीबली सेव्हा स्वतः मालकानेच येऊन दार उबडले सुधीर हेद्रे तब नाव अगगर भूति मुबईकरांना माहीत असल्याचे काहीय कारण नमल्याने त्याने त्याच्याकडे न्याहाकून माहत म्हटले

“आपण कोण ? मी ओकमले नाही आपल्याला आपण विमा एजंट कसाल, सर मी आधीच विमा उतरलेला आहे”

हेद्रे जरा बरमलेय पण त्पने हास्य करोत ते म्हाणाले” मी सुधीर हेद्रे मी ‘लमा’ आहे”

भालकाला हेद्रेचा उद्देश्य कललाच नाही पण बिबारा सम्य होता तो लगेच म्हाणाला,” अहो “उमे” कशाला राहता बवा ना अति था

हेद्रे राम आवरीत म्हाणाले “ससे भव्हे मी निवडणुकीला उमा आहे”

मालक म्हाणाले, “बस का आक्षेप मराठी दिसता. मग आपण सयुक्त महाराष्ट्र समितीच्या बतीने उमे असणार. फार छान. आमचे मत तुम्हालाचा

हेद्रे म्हाणाले, “नाही मी समितीच्या विरुद्ध स्वतंत्र सयुक्त महाराष्ट्रवादी म्हाणून लमा आहे,,

हे ऐकतांच ते गृहस्थ षिडून म्हाणाले, “अस का? गग ‘बसू’ नका. पडई

आणि त्या गृहस्थाने एकल्या जोराने दरवाजा लावून घेतला की सुधीर हेद्रे वचकून खरोखरच घडले.

Don't sit, fall down!

Shri Sudhir Hendre, the independent candidate for Lok Sabha from City Central, went to make election propaganda in a respectable Maharashtrian locality. He was hoping that after seeing his neat dress and car, the higher class Maharashtrians would vote for him.

He rang a bell of a door in a house. The owner himself opened the door. Since there was no reason for people to know Sudhir Hendre's name or face the house holder started observing Hendre and asked "Who you?" ("Who are you?") "If you are insurance agent I am already insured."

Hendre was slightly startled. But pretending to smile he said 'I am Sudhir Hendre' "I am standing!"

The householder did not understand Hendre's object but he was gentleman and said immediately, "Oh why do you stand, come in and sit down."

Hendre said restraining his anger "Not that, I am standing for election."

The householder said "Oh is it so? You appear to be Maharashtrian. Then you must be standing on behalf of S M Samiti. Very good. Our votes to you only!"

Hendre said "No I am standing as an independent candidate believing in United Maharashtra opposing the S M Samiti." Listening to this (Hearing this), the householder got irritated and said "Oh is it so?" Then do not sit, Fall!"

And that house-holder banged the door so violently that Sudhir Hendre really fell down.

Ex. P-DR—Maratha, dated 6th March 1957:

कामगार बैधूनों, महाराष्ट्राची व १०५ हुतात्यांची शपथ आहे तुम्हाला. ११ तारखेला मत दिल्याशिवाय वाहेरगंभी जाऊ नका व सं० महाराष्ट्राचा घात करू नका.

एस० ए० डंगे, अध्यक्ष,

४-३-५७

स० म० नि० समिति

("Brother workers, In the name of Maharashtra and 105 martyrs, do not go out on the 11th without giving votes and do not betray Samyukta Maharashtra.

The 4th March 1957.

S. A. DANGE, President,

S. M. N. Samiti".)

Ex. P-6, Maratha dated 7th March 1957:

डों, नरवणे यांचा विधानसभेचा सिंह, मतदारांची फसवाणूक करण्यासाठी लोकसभेचे स्वतंत्र उमेदवार श्री हेंद्रे यांच्या सिंहावर झेप थालील आणि त्यामुळे हेंद्रेचा सिंह म्हाणजे यशवंतराव चव्हाणांनी सिंहाचे कातडे चढविलेले वेगळेच समावर आ हें उघडकीला येईल.

Ban on the Wise Man Mounted on (Riding) the Camel

Dr. Narvane's lion of the legislative assembly will pounce upon the lion of Shri Hendre independent candidate for Lok Sabha as the latter lion is calculated (as Shri Hendre, an independent candidate to Lok Sabha) to mislead the voters and then it will be revealed that Hendre's Lion will be identified as a different animal wearing the Lion's skin given by Yeshwantrao B. Chavan.

Ex. P-31—Maratha dated 16th March 1957:

कां० एस० ए० डंगे यांची घोष्याची सूचना.

संयुक्त महाराष्ट्र चलवलीने काँग्रेस हुकुमशाहीचा धुव्वा उडविण्यामुळे सत्ताधारी पक्ष चिडला आहे. त्यांचे मुंबईय हस्तक मध्य मुंबईतील दिली लोकसभेच्या निवडणुकीमध्ये कांहीतरी कायदेशीर खुसमटे करून या दोन जागांच्या निकालामध्ये विघ्ने आणण्याची तयारी करित आहेत.

हेंद्रे या नांवाचा जो गृहस्थ येथे उमेदवार होता त्याच्या तफे निवडणूक कमिशनकडे अर्ज करवून आल्या पार्लमेंटच्या निवडणुका रद्द करविण्याचा डाव यशवंतराव चव्हाणा भटाने रचला आहे.

निवडणूक कमिशनने या डावाला साथ दिली तर आपल्यावा परत ही झुंज घ्यावी लागेल.

म्हणून आपले गाले, याद्या, काडे, स्वयंसेवक ही सर्व संघटना आहे तशी ज्युयत ठेवा काम संपले असे समजून तो विस्कलीत करू नका. अशी जाहीर निनंति करणे महा भन रा पडत आहे.

ए० एस० डंगे.

१५-३-५७

अध्यक्ष, स० म० निवडणूक समिति.

Com. S. A. Dange's Danger warning:—

Because United Maharashtra Movement has smashed Congress dictatorship, the party in power has got upset. Their agents (in Bombay) are trying to rake up legal obstacles in the elections to Lok Sabha as far as two seats from City Central are concerned

A man named Hendre was standing for elections. Yeshwantrao Chawan clique is getting an application filed through this man in order to get the elections set aside.

If Election Commission becomes a party to this plot we shall have to fight again. (If the Election Commission supports this move, we shall have to fight again).

Therefore our roles, lists, cards and volunteers all this organization should be kept in tact as it is. Do not believe that work is over and disorganise. I am compelled to make this public request.

The 15th March 1957.

S. A. DANGE, Chairman,

Ex. P-5, Maratha dated 20th March 1957:

S. M. Election Samati.

यशवंतराव चव्हाणांच्या आणि अमेरिकन पैशावर चालणाऱ्या डेमोक्रेटिक रीसर्च सर्व्हिसच्या सांगण्यावरून नव्य मुंबईत लोकसभेच्या जागेसाठी श्री हेन्द्रे गृहस्थ कों० डांगे यांच्या विरुद्ध उमे राहिले आहेत.

A man named Shri Hendre advised by Yeshwantrao Chavan and Democratic Research service, an institution financed by American Money, is standing for Lok Sabha from Bombay City Central Constituency (against Com. Dange).

[No. 82/437/57/8827.]

By order;

A. N. SEN, Under Secy.

